A

DIGEST

OF THE

CIVIL REGULATIONS

IN FORCE

IN THE

LOWER PROVINCES.

BENGAL PRESIDENCY.

CALCUTTA:

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„	„	x.	1	*ib.*
„	„	„	2	*ib.*
„	„	xi.	„	*ib.*
„	„	xii.	1	282
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„	„	„	3	*ib.*
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„	„	„	3	*ib.*
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„	„	„	6	*ib.*
„	„	„	7	*ib.*
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	vii. 2	„ by sec. xv, Reg. V, 1831.
	vii. 4	„ by cl. 2, sec. xvi, Reg. V, 1831.
	viii, ix.	„ by the abolition of the office of zillah register.
	x.	„ by secs. i & ii, Act IX, 1844.
	xi, xii.	
1821. II.	ii, iii.	„ by secs. iii, iv & viii, Reg. V, 1831.
	v, vi.	„ by secs. xiii & xv, Reg. V, 1831.
	xi. to xiii.	
	xiv.	Abolishes the office of Register of Provincial Courts.
1824. III.	ii.	
XIII.	ii. 1	Unnecessary; only rescinds.
	ii. 2	
	iv. 1	Unnecessary; only rescinds.
	iv. 2 to 4	

Original Regulation or Act.			Remarks.
1831.	V.	iii.	Additions from Act VIII, 1836.
		iv.	Unnecessary ; only rescinds.
		v. 1 to 3	Additions from sec. viii, Act VI, 1843.
		v. 4, 5	Superseded by sec. vi, Act VI, 1843, and sec. i, Act XXVI, 1832.
		vi. 1	Unnecessary ; only rescinds.
		vii.	
		xii. 1	Unnecessary ; only rescinds.
		xii. 2	
		xiii.	Additions from Act VIII, 1836.
		xiv. 1	Unnecessary ; only rescinds.
		xiv. 2	Amalgamated with sec. lxix, Reg. XXIII, 1814.
		xv. 1	Unnecessary ; only rescinds.
		xv. 2	
		xv. 4	
		xvii.	Additions from sec. ii, Reg. XVIII, 1817, and Act VIII, 1836.
		xviii. 1	
		xviii. 5	
		xxiv.	
		xxvi. 1 to 4	
		xxvi. 5	Amalgamated with cl. 2, sec. x, Reg. XXIII, 1814.
		xxvii. 3	
	VIII.	xi.	
1832.	VII.	x.	
		xvii.	
1833.	VIII.	ii.	
1836.	VIII.		Amalgamated with secs. iii, xiii & xvii, Reg. V, 1831.
	XI.	ii.	
	XXI.		
1837.	XXV.	i.	
		ii.	Unnecessary ; only repeals.
		iii. v, vii, viii.	
1838.	XXVII.	i.	Unnecessary ; only repeals.
		ii.	
1839.	III.	iii.	Amalgamated with sec. vii, Act VI, 1843.
1843.	VI.	vi.	Unnecessary ; only repeals.

Original Regulation or Act.		Remarks.
1843. VI.	vii.	
	viii.	Amalgamated with cls. 1 to 3, sec. v, Reg. V, 1831.
	ix.	
1844. IX.	i. to iii.	
1847. XII.		Unnecessary ; only repeals.

PROCEDURE ON THE TRIAL OF ORIGINAL SUITS.

Original Regulation or Act.		Remarks.
1793. III.	v, vi.	
	x, xi.	Additions from cl. 1, sec iii, Reg. II, 1814, in sec. xi.
	xiii.	
	xx, xxi.	
IV.	ii, iii.	Additions from sec. xvii, Reg. XXIII, 1814, in sec. iii.
	iv.	Superseded by Reg. V, 1831, and Act XXV, 1837.
	v.	Part superseded by Reg. II, 1806, and Reg. XXVI, 1814.
	vi.	Part repealed by Act VII, 1841.
	vii.	
	ix.	
	x.	Superseded by Act XXIX, 1841.
	xi.	Incorporated with sec. iii, Reg. II, 1806.
	xii, xiii.	
	xv to xix.	
	xxvi.	
V.	xxviii.	
XVI.	ii to ix.	
	x.	
1794. VIII.	ii.	Unnecessary; only rescinds.

Original Regulation or Act.			Remarks.
1794.	VIII.	iii. to xii.	Superseded by the abolition of the office of zillah register.
		xiii.	
1795.	LVIII.	iii, iv.	
1798.	II.	ii, iii.	Rescinded by cl. 1, sec. iv, Reg. XXVI, 1814.
		iv.	
		x.	Superseded by Act III, 1845.
	V.	ii.	Superseded by the abolition of Provincial Courts.
		iii. to vi.	
1802.	III.	ii.	
		iv.	Superseded by the abolition of the office of zillah register.
		v, vi.	Rescinded by sec. ii, Reg. XXVIII, 1814.
1805.	II.	viii, ix.	
		xiv.	Superseded by the abolition of the office of zillah register.
	XIX.	ii. to vii.	
1806.	II.	ii. to vi.	Additions from sec. xi, Reg. IV, 1793, in paragraph 9; from sec. vi, Reg. IV, 1793, sec. ii, Reg. III, 1802, and sec. iv, Act VI, 1843, in paragraph 10.
		vii, viii.	
		ix.	Rescinded by sec. ii, Reg. XXIII, 1814.
		x, xi.	
	VII.	viii.	
	XVI.	ii. to v.	
1808.	XIII.	ii, iii, v.	Superseded by the abolition of the Provincial Courts.
		vi.	Extinct.
		vii.	Superseded by later enactments.
		viii. to x.	Superseded by Act XIX, 1853.
		xi. 1.	Unnecessary; only declares modifications.
		xi. 2 to 4.	
		xii, xiii.	
1812.	IV.	ii. to iv.	
	XVI.	ii.	
1813.	VI.	ii. to iv.	

Original Regulation or Act.		Remarks.
1814. II.	ii.	Unnecessary; only rescinds.
	iii.	
	iv.	Superseded, the sections referred to being repealed.
XXIII.	xiv.	
	xvii.	Incorporated with sec. iii, Reg. IV, 1793.
	xviii.	
	xix.	Repealed by sec. i, Act XXVI, 1852.
	xx.	
	xxi. to xxiv.	Repealed by sec. i, Act XXVI, 1852, and sec. iii, Act VI, 1843.
	xxv. 1 to 3 & 5.	Repealed by sec. i, Act XXVI, 1852.
	xxvi.	
	xxvii.	Repealed by sec. i, Act XXVI, 1852.
	xxviii.	
	xxix.	Repealed by sec. i, Act XXVI, 1852.
	xxx.	
	xxxi.	Superseded by Act VII, 1841, and Act XIX, 1853.
	xxxii.	
	xxxiii.	
	xxxiv.	Superseded by Act V, 1840.
	xxxv.	Repealed by sec. i, Act XXVI, 1852.
	xxxvi.	
	xxxvii.	Repealed by sec. i, Act XXVI, 1852.
	xxxviii. 1 & 3	
	xxxix, xl.	Superseded by sec. ii, Act XXVI, 1852.
	xli. 1, 2.	
	xlii.	Repealed by Act XXX, 1841.
	xliii.	Rescinded by sec. ii, Reg. VII, 1829.
	xliv.	Superseded by sec. vii, Reg. VII, 1832.
	xlv. 1 to 6	
	xlv. 7	
	l.	
	li. 1	
	li. 2, 3	Superseded by cl. 2, sec. xii, Reg. V, 1831.
	lii. to liv.	
	lv. to lix.	Repealed by Act I, 1839, Act X, 1840, and Reg. V, 1831.
	lxxi, lxxii.	

Original Regulation or Act.	Remarks.
1814. XXIII. lxxiii.	Incorporated with the sections therein. referred to.
lxxiv.	Superseded by sec. ii, Act XXVI, 1852.
lxxvi, 1 to 4	
lxxvi. 5	Rescinded by sec. v, Reg. XIII, 1824.
lxxvi. 6	
lxxvii.	Superseded by the abolition of the office of zillah register.
XXIV. xii. 11, 12	Additions from sec. xvii, Reg. VII, 1832.
XXVI. iv. 1	Unnecessary; only rescinds.
iv. 2 to 4	Additions from cl. 2, sec. xix, Reg. V, 1831, in cl. 2.
vi. 1	Unnecessary; only declares modifications.
vi. 2, 3	
vii. 1	
x.	
xi.	Superseded by Act VII, 1841.
xii.	Superseded by sec. vi, Act XIX, 1853.
xiii. 1	Unnecessary; only introductory.
xiii. 2, 3	
xv. 1	Unnecessary; only declares modifications.
xv. 2, 3	Superseded by sec. vii, Reg. VII, 1832.
xv. 4 to 9	
XXVII. xxvii.	Incorporated with sec. xxvi, Reg. IV, 1793.
XXVIII. ii.	Unnecessary; only rescinds.
iii. to vi. 1, vii, viii.	Cl. 2 of sec. vi, is rescinded by sec. iv, Reg. XIII, 1824.
ix.	Superseded by sec. ii, Act IX, 1839.
x. 1	
x. 2	Repealed by sec. i, Act I, 1846.
xi. to xviii.	
1822. XI. xxxviii.	
1824. XIII. iv. 1	Unnecessary; only rescinds.
iv. 2 to 4	
v.	Incorporated with cl. 6, sec. lxxvi, Reg. XXIII, 1814.
1825. II. ii, iii.	
iv.	Superseded by Act XVI, 1853.
v.	

Original Regulation or Act.			Remarks.
1825.	VII.	ii. 1	Unnecessary; only declares modifications.
		ii. 2, 3	
		iii, iv. 1	
		iv. 2, 3	Repealed by sec. i, Act IV, 1846.
		iv. 4, 5	
		v. to vii.	
	XIX.	ii. to iv.	
1829.	XIII.	ii.	Unnecessary; only rescinds.
		iii.	Unnecessary.
		v.	
	XIV.	ii.	
		iii.	Extinct.
1831.	V.	ii.	Unnecessary, the Regulation itself being now general.
		x.	Superseded by sec. ii, Reg. VII, 1829.
		xi.	Repealed by sec. vii, Reg. VII, 1832.
		xviii. 2, 3	
		xviii. 4	Superseded with regard to suits by sec. i, Act VI, 1843.
		xxi.	
		xxii, xxiii.	
		xxix.	Extinct.
1832.	VI.	ii, iii.	
	VII.	v. 5	
		vii.	
		viii, ix.	
		xvii.	Incorporated with cls. 11, 12, sec. xii, Reg. XXIV, 1814.
1836.	V.		
1837.	XXV.	iv.	
1839.	IX.	i, ii.	
	XXVII.		
1840.	V.	i. to iv.	Additions from Act II, 1847, in sec. iv.
	XIX.		
1841.	VII.	i	Unnecessary; only repeals.
		ii. to viii.	
1843.	VI.	i.	
		iii.	Unnecessary; only repeals.
		iv.	
	XII.	i.	
		ii.	Relates to Madras and Bombay only.

Original Regulation or Act.			Remarks.
1843.		iii.	
1845.	III.		
	XIV.	i.	Unnecessary; only repeals.
		ii.	
	XVII.	i.	Unnecessary; only repeals.
		ii, iii.	
1846.	I.	x. to xii.	
	IV.	i, ii.	Unnecessary; only repeals.
		iii.	
		iv, v.	Additions from sec. ii, Act XXV, 1850, in sec. v.
		vi. to ix.	
		x. to xii.	
1847.	II.		Incorporated with sec. iv, Act V, 1840.
	XIV.		Unnecessary; only repeals.
1850.	XXI.		
	XVIII.		Additions from sec. xxxviii, Reg. XI, 1822.
	XXV.	i.	Unnecessary; only repeals.
		ii.	Incorporated with sec. v, Act IV, 1846.
1852.	XXVI.	i.	Unnecessary; only repeals.
		ii, iii.	
		iv.	Provided for in the sections therein referred to.
		vi, vii.	
		viii.	Extinct.
		x.	Unnecessary.
	XXXIII.	i. to xi.	
1853.	XIX.	i.	Unnecessary; only repeals.
		ii. to xliii.	
		xliv.	Extinct.

PROCEDURE ON THE TRIAL OF APPEALS.

Original Regulation or Act.			Remarks.
1793.	V.	iii. to v.	Superseded by the abolition of the Provincial Courts of Appeal.
		vi, vii.	Inoperative.

Original Regulation or Act.		Remarks.
1814. XXV.	ii, iii.	Superseded by the abolition of the Provincial Courts.
	iv.	Rescinded by sec. viii, Reg. IV, 1823.
	v, 1	
	v, 2 to 5	Superseded by Act XVI, 1853.
	vi.	
	vii.	Superseded by the abolition of the Provincial Courts.
	viii.	Superseded by Act II, 1843.
	ix.	Superseded by later enactments.
	xi. to xiv.	Inoperative.
	xvi.	Incorporated with the sections therein referred to.
	xviii.	Last part superseded by Reg. III, 1829.
XXVI.	ii, 1, 2	Superseded by Act XVI, 1853.
	ii, 3 to 5	
	ii, 6, 7	Superseded by Acts I, 1846, and XVI, 1853.
	iii, 1	Unnecessary ; only rescinds.
	iii, 2	
	iii, 3	Superseded by the abolition of the Provincial Courts.
	iii, 4	
	iii, 5 to 10	
	viii, 1	Unnecessary ; only introductory.
	viii, 2, 3	
	viii, 4	Repealed by sec. i, Act I, 1846.
	viii, 5	
	viii, 6	Superseded by Act XV. 1853.
	viii, 7 to 11	
	ix.	
XXVIII..	xviii.	
1825. II.	v.	
VII.	v, 2	
1828. III.	iv, 5	
1831. V.	xvi, 1	Unnecessary ; only introductory.
	xvi, 2, 3	Additions from sec. i, Act VIII, 1850, in cl. 3.
	xviii, 4	
	xix, 1	

Original Regulation or Act.			Remarks.
1831.	V.	xxvii, 1, 2	Superseded by the abolition of the Provincial Courts.
		xxviii.	
	VI.	vii.	
	IX.	ii, 1 to 3	
		ii, 4	Additions from sec. i, Act II, 1843.
		ii, 5 to 7	
		viii.	
		ix, x.	
1832.	VII.	ii, 1	Superseded by Act XV, 1853.
		ii, 2	Repealed by sec. ix, Act XXV, 1837.
		ii, 3, 4	
		xii.	Superseded; the office of register to Zillah Court being abolished.
		xiii.	Superseded by Act XVI, 1853.
		xv.	
		xviii.	Extinct.
1836.	XI.	i.	Unnecessary; only repeals.
		ii.	
1837.	III.	i, ii.	
	XXV.	iv. to vi.	
		ix.	
1838.	VII.		
	XXII.	i, ii.	
1839.	XI.		
1841.	XXIX.	i. to iii.	
1843.	II.	i, ii.	
	III.		Repealed by sec. i, Act XVI, 1853.
	VI.	ii.	
		v.	
1844.	II.	i, ii.	Additions from Order in Council, 13th June, 1853.
	IX.	iv.	
1845.	XVI.	i.	
		ii.	Extinct.
		iii.	
1847.	XVII.		
1850.	IV.	i. to iii.	Repealed by sec. i, Act XV, 1853.
	VIII.	i.	Incorporated with cl. 3, sec. xvi, Reg. V, 1831.

Original Regulation or Act.		Remarks.
1850. VIII.	ii.	
XXX.	ii to iv.	Repealed by sec. i, Act XV, 1853.
1851. II.		
1852. XXV.	i to v.	
	vi.	Only declares to what provinces the Act applies.
XXVI.	ix.	
1853. XV.	i.	Unnecessary; only repeals.
	ii to xvi.	
XVI.	i.	Unnecessary; only repeals.
	ii, iii.	
	iv to x.	
	xi.	Unnecessary; only declares what rules remain in force.
XIX.		Merely a few words adapted from that Act.
1854. IX.		

RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION.

Original Regulation or Act.		Remarks.
1793. III.	x, xi.	
	xiii.	
	xix.	
IV.	viii.	Incorporated with sec. xii, Reg. II, 1806.
	xv.	
V.	ix.	
VI.	vi.	
	vii, xx.	
XI.	ii. to vi.	
XV.	ii, iii.	Extinct.
	iv to xii.	
XXVI.	iii.	

Original Regulation or Act.		Remarks.
1793.	XXXVI. ii.	Additions from sec. ii, Reg. XVIII, 1817.
	iii. to vi.	
	vii, viii.	
	ix, 1.	Unnecessary; only introductory.
	ix, 2.	
	x to xiv.	
	xv, xvi.	Additions from Act I, 1843, in sec. xvi.
	XXXIX. i.	Only a part of the preamble is retained.
	vii, viii.	
1796.	XIII. iii.	
1798.	I. i to v.	
	II. iv, vii.	
1799.	V. ii to v.	
	vi to viii.	
1800.	I. i to vii.	
	X. ii.	
1801.	II. vi, xiii.	
1803.	XXXIV. ii.	Extinct.
	iii to xi.	
	xii to xv.	
	LII. v.	
1805.	II. ix.	
	VIII. xxiii, 1	Unnecessary; only extends enactments.
	xxiii, 2	
	xxix, 1	Applied to sec. v, Reg. LII, 1803.
	XIV.	
	ix, 1, 3 to 6	
	ix, 2	Extinct.
	XVII. ii to v.	
1806.	II. xi.	
	xii.	Additions from sec. viii, Reg. IV, 1793.
	VII. viii.	
	XV. vi.	
	XVII. i to vi.	Only a part of sec. i is retained.
	vii, viii.	
1807.	I. iv, 2, vii.	
1810.	XIII. vi, 2, viii.	
1812.	IV.	
	V. xxvi.	Modifications from Reg. V, 1827, introduced.

Original Regulation or Act.			Remarks.
1812.	V.	xxvii.	Superseded by sec. iii, Reg. V, 1827.
	XX.	ii.	
		iii, iv.	
		v.	
		vi.	
		vii to x.	
1814.	II.		
	XXV.	v, 1, xviii.	
	XXVI.	iv.	
		x, xv, 4	
1816.	XI.	ii. to ix.	
		x.	Superseded by Act I, 1846.
		xi to xx.	Additions from paragraph 1, Order in Council of 10th April 1838, in sec. xx.
1817.	V.	ii to x.	
1822.	XI.	xxxviii.	
1824.	IV.	ii to v.	
		vi, vii.	
1825.	II.		
	VII.		
1827.	V.	ii	Unnecessary; only declares modifications.
		iii, iv.	
1829.	XIII.	v.	
	XIV.		
1830.	VI.	ii, iii.	
		iv.	Extinct.
		v.	
1831.	VI.	vii.	
	IX.	ix, x.	
1832.	VI.	ii, iii.	
	VII.	iv.	
		viii, ix.	
1833.	II.	ii.	Unnecessary; only introductory.
		iii.	
		iv.	Extinct.
		v.	
1837.	XIX.		
1838.	XXX.	i.	Unnecessary; only declares modifications.
		ii to iv.	
		v, vi.	

Original Regulation or Act.	Remarks.
1839. XXXII.	
1840. V.	
1841. VII.	
XIX. i to xx.	
XX. i to xv.	
XXIX.	
1843. I.	
XIX. i to iii.	
1845. IV. i to iv.	
1846. IV.	
1847. XVII.	
XVIII.	
Preamble.	
i, ii.	
1850. XVIII.	
XXI.	
XXV.	
1851. X. i to v.	
XI.	
1853. XIX.	
1854. VIII.	
Preamble.	
i to iv.	
IX.	

PLEADERS.

Original Regulation or Act.	Remarks.
1814. XXIII. xv. lxxii.	Repealed by sec. i, Act I, 1846.
XXVII. ii.	Unnecessary; only rescinds.
iii, 1	
iii, 2	Superseded by Reg. II, 1833.
iii, 3	Superseded by sec. i, Act I, 1846.

Original Regulation or Act.			Remarks.
1814.	XXVII.	iv, v, 1	Additions from sec. ii, Reg. XVIII, 1817, in paragraph 8.
		v, 2	Superseded by sec. ii, Reg. XVIII, 1817.
		vi.	
		vii.	Repealed by sec. i, Act I, 1846.
		viii. to xi.	
		xii. to xiv.	Additions from sec. ii, Act XX, 1853, in paragraph 21.
		xv, 1	Repealed by sec. i, Act I, 1846.
		xv, 2	Last part superseded by the abolition of the office of Zillah Register.
		xvi.	Repealed by sec. i, Act XX, 1853.
		xvii.	Superseded by Act XXXVIII, 1850.
		xviii, 1 to 4	
		xviii, 5	Superseded by Act I, 1846.
		xix, xx, 1 to 3	
		xx, 4	Repealed by sec. ix, Act I, 1846.
		xx, 5, 6	Last part of paragraph 35 superseded by Act I, 1846.
		xxi, xxii.	
		xxiii, xxiv.	Repealed by sec. i, Act I, 1846.
		xxv.	
		xxvi.	
		xxviii, xxix.	Repealed by sec. i, Act I, 1846.
		xxx, xxxi.	
		xxxii to xxxv.	Repealed by sec. i, Act I, 1846.
		xxxvi to xxxviii.	
		xxxix, 1	Repealed by sec. i, Act I, 1846.
		xxxix, 2	
		xl.	
1829.	X.	xviii.	
	XIII.	iv, 1	Unnecessary; only introductory.
		iv, 2, 3	
1831.	V.	xviii, 3	
		xxx.	Repealed by sec. i, Act I, 1846.
1832.	VII.	xi.	
1846.	I.	i, ii, iii.	Unnecessary; only repealing enactments.
		iv, v.	
		vi to ix.	
		x to xii.	

Original Regulation or Act.		Remarks.
1846. I.	xii.	Relates to Madras only.
1850. XXX.	i.	Unnecessary.
1852. XVIII.	i.	Incorporated with the sections therein referred to.
	ii to vii.	
1853. XX.	i.	Unnecessary; only repeals.
	ii to iv.	

STAMPS.

Original Regulation or Act.		Remarks.
1814. I.		Rescinded by sec. ii, Reg. X, 1829.
XXIII.	xvi.	Rescinded by sec. viii, Reg. V, 1831.
	xxv, 4	Provided for in Reg. X, 1829.
	xxxviii.	
	part of 1 and 2	
	xli, 3	
XXVI.	v, 1.	Unnecessary; only introductory.
	v, 2 to 5	
	vii, 1	
	vii, 2	Superseded by the abolition of the Provincial Court.
	xvi, 1 to 3	Provided for in Reg. X, 1829.
	xvi, 4	
	xvii, xviii.	
	xix to xxv.	Superseded by Reg. X, 1829.
	xxvi.	Superseded by Reg. X, 1829.
XXVIII.	v, 1.	
	viii.	
	ix.	Superseded by sec. ii, Act IX, 1839.
	xix.	
1816. IV.	ii.	Provided for in Reg. X, 1829.
1817. III.		Superseded by Regs. V, 1831, X, 1829, and sec. vi, vii, 1832.

Original Regulation or Act.			Remarks.
1817.	XIX.	v. viii.	Superseded by Reg. X, 1829.
1824.	XIII.	iii, 1	Unnecessary ; only rescinds.
		iii, 2, 3	Provided for in Reg. X, 1829.
	XVI.		Rescinded by sec. ii, Reg. X, 1829.
1826.	XII.	ii to xv. Schedule	
1829.	X.	ii.	Unnecessary ; only rescinds.
		iii to xxi. Schedules	
1831.	V.	viii, 1	Unnecessary ; only rescinds.
		viii, 2	
		ix.	
		xi.	
1832.	VII.	iii.	
		vi, 1	Unnecessary ; only repeals.
		vi, 2	Provided for in Reg. X, 1829.
1837.	XXV.	v. vi.	
	XXVIII.		Unnecessary ; only repeals.
1839.	IX.	ii.	
	XI.		
1844.	IX.	v.	
1845.	XV.	iii to v.	
1852.	XXVI.	v.	
1853.	XVI.	ix, 3	

DIGEST

OF

BENGAL

LOWER PROVINCES;

CIVIL REGULATIONS.

1793—1854.

ALPHABETICALLY ARRANGED.

ACT.

ACTIONS; *already decided.*

The Zillah and City Courts are prohibited entertaining any *cause* which, from the production of a *former* decree, or the records of the Court, shall appear to have been *heard* and determined by any former Judge, or any Superintendent of a Court having competent jurisdiction. If any doubt should arise respecting the competency of the former jurisdiction, the *Judges* are to *report* the circumstances to the Sudder Dewanny Adawlut, and wait the instructions of that Court.—Reg. III, 1793, Sec. XVI.

ACTIONS; *in two Courts for the same cause. Groundless.*

If a suit shall have been instituted in the Court of Dewanny Adawlut of any zillah or city in which it may have been cognizable, no other Zillah or City Court is to entertain

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a suit for the same cause of action; and on proof being made in the Court in which the second suit may be commenced, that a prior suit for the same cause of action has been instituted in another Zillah or City Court competent to try it, the Court in which the *second suit* may be brought, is to *dismiss* it, with costs, to be paid by the party so suing. And if any person shall have commenced a suit in the Dewanny Adawlut of any zillah or city, and whilst that suit is depending, or after a decree may be passed in it, shall commence another suit in any other Zillah or City Court of Dewanny Adawlut for the same cause; or if any person shall commence a suit in any Zillah or City Court of Dewanny Adawlut, which shall appear to the Judge to be frivolous, vexatious, or *groundless*, he is not only to *dismiss* the

suit, with such costs as he may deem it equitable to award against the plaintiff, but is to *fine* him in such amount as he may think proper, upon a consideration of the nature of the case and the situation and circumstances in life of the offender, and commit him to close custody until he pays the fine.—Reg. III, 1793, Sec. xii.

ACTIONS; *against Government: who is to defend. Other general rules for personal liability of public officers.*

Collectors of the Revenue and their Assistants and native officers, Salt agents and their assistants and native officers concerned in the manufacture of Salt, the Collectors of the Customs and their assistants and native officers employed in the collection of the customs, the Mint and Assay masters and their assistants and native officers, are declared amenable to the Zillah or City court in the jurisdiction of which they may reside or carry on the public business committed to their charge, for any acts done in their official capacity, in opposition to any Regulation.—Reg. III, 1793, Sec. x.

If a native, or any other person not being a British subject, shall consider himself aggrieved under any Regulation, by an act done by any of the officers of Government described in the preceding Section, pursuant to a special order originating with the Board of Revenue or other superintending Board, the officer by whom the act may be done is not to be liable to be sued for it. In such cases, Government is to be considered as the defendant; and the person deeming himself aggrieved is to present a petition to the Court to which the officer by whom the act complained of may have been done, shall be amenable in his public capacity, stating wherein he considers himself injured under the Regulations, and praying that the Governor-General in Council will order the Court in which the cause may be cognizable, to try the points or matters contested, agreeably to the Regulations. The Judge to whom the petition may be presented is to forward it immediately to the Board to which the person complained against may be amenable, who, provided they shall not think it proper to afford the redress that may be solicited by the petitioner, and the Courts of justice shall be competent to try the cause, will direct the Court in which it may be cognizable, to proceed to the trial of it. If the said Board shall order the cause to be tried, the Court is immediately to send a written notification of the order to the complainant, and the cause is to be considered as filed in the Court from the date of the notification. The Court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The officer by whom the act complained against may have been done, is

to carry on the suit under the directions of the Board of Revenue, or other superintending Board, according to the immediate authority under which he may have acted, and is to issue the necessary instructions to the Vakeel of Government in the Court in which the suit may be instituted, or subsequently carried in appeal. In the event of Government being cast in any of the Courts, the officer entrusted with the management of the suit is to send a copy of the decree and proceedings of the Court to the Board of Revenue, or other superintending Board, according to the immediate authority under which he may have acted, with a letter stating any objections that he may have to offer to the decision. The Boards above mentioned will order an appeal from the decisions that may be transmitted to them, under this Section, to be preferred or not, as may appear to them advisable. The costs and damages that may be awarded against Government, in suits instituted under this Section, are to be defrayed from the public treasury. All special rules respecting cases of the nature of those described in this Section are to be duly attended to by the plaintiff, and the Boards and officers concerned in them.—Reg. III, 1793, Sec. xi.

Whenever a petition of complaint may be preferred against a Collector of the Land revenue or Customs, Salt agent, or Opium agent, or other person amenable for acts connected with his official duties, to any Court of Civil Judicature competent to receive and try such cases, the Judge or Judges of such Court shall transmit the petition so received to the Board of Revenue, or other superintending Board to which the person complained against may be subject.—Reg. II, 1814, Sec. iii, cl. 1.

The Board of Revenue, or other superintending Board, on receipt of any petition of the nature described in the preceding clause, shall immediately take the circumstances stated therein into their consideration, in order to judge whether the redress solicited should be granted directly by Government, or whether the complainant should be left to prosecute his suit in the regular course of law.—Reg. II, 1814, Sec. iii, cl. 2.

Should the superintending Board be of opinion, after making due inquiries on the subject, either by consulting their own records, or by a reference to the local authorities, or in any other mode which may be judged advisable, that the party complaining has been actually aggrieved, and that he is entitled to redress directly from Government, they shall submit the necessary report on the subject, accompanied with their opinion as to the nature and extent of the relief which should be granted.—Reg. II, 1814, Sec. iii, cl. 3.

Should the superintending Board be of opinion, after mak-

ing due inquiries on the subject, that the party complaining should be left to prosecute the case in the regular course of law, they shall inform the Judge or Judges of the Court from whom the petition may have been received of the result of their deliberations on that point; and such communications shall be deemed sufficient authority for the formal institution and trial of the suit in question. The Boards aforesaid shall at the same time determine whether the suit should be defended by the public officers as an action against Government, or by the person affected by the complaint in his individual capacity, and shall inform the Judge or Judges by whom the case may have been referred to them, of their decision on this point accordingly. —Reg. II, 1814, Sec. iii, cl. 4. (See Revenue Regulations on "Revenue," "Settlement," "Rent," "Customs," "Salt and Opium.")

In cases in which a party preferring a petition of complaint against a Collector of the Land revenue, or of Customs, or other person amenable to the Courts of Civil Judicature, for acts connected with his official duties, may not be considered entitled to redress from Government, under the provisions of cl. 3, Sec. 3. Reg. II, of 1814, and who may consequently, under the preceding enactment, proceed to prosecute the case in the regular course of law, such suit shall be entered on the file of the Court, from the date on which the petition was originally received, and the case shall be brought to a hearing and determination in the order in which it would have been heard and determined had it been originally instituted on such date.—Reg. XIII, 1829, Sec. v.

Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding, or decree of any Court of Judicature, whether a Revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding, or decree deemed to be erroneous or irregular. Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding, or decree of a Court as aforesaid; and if any person or persons shall sue Government, or any officer of Government, for any thing done or suffered under an order, proceeding, or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.—Reg. XI, 1822, Sec. xxxviii.

The principle contained in the preceding Sec. is and shall be held applicable to all orders, proceedings, or decrees made, held, or passed by any public officer, in virtue of powers vested in him for the Judicial cognizance of any pleas, suits, complaints, or informations whatsoever, unless otherwise specially provided. No Judge,

Magistrate, Justice of the peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him, in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the peace, Collector, or other person acting judicially, shall be liable to be sued in any Civil Court, for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.—Reg. XI, 1822, Sec. xxxviii, and Act XVIII, 1850.

ACTIONS; *against Public Officers in Calcutta.*

All complaints against the Collector of Customs at Calcutta, or his public officers, or any other public officer at the presidency, which, by the Regulations in force, are cognizable in any Civil Court shall be received, tried, and determined, as prescribed in the Regulations, by the Judge of the Dewanny Adawlut of the Twenty-four-pergunnahs.—Reg. VII, 1806, Sec. viii.

ACTIONS; *by inhabitants of foreign territories. Security: pauper.*

Every person being an inhabitant of a foreign territory, who may desire to institute or defend an original suit, or to prosecute or defend an appeal in any Civil Court, shall be required to furnish security for all eventual costs of suit, which may be adjudged payable by such person, and shall furnish such security by a surety or sureties residing and possessing property within the limits of the Company's territory, and within the jurisdiction of the Company's Court. Such security shall be furnished by a plaintiff or appellant *within six weeks* of the date on which his plaint or appeal is filed, and a defendant or respondent shall furnish it within six weeks of the date on which the usual summons is served on him; unless such security be so furnished, the suit of such person, if plaintiff, shall not be proceeded in. If defendant or respondent, he shall not be allowed to defend his suit or appeal, but the cause shall be decided *ex parte* on the statements and proofs of his opponent. And *no appeal* shall be admitted from the party who may have failed to give the required security, *until* he shall first have made good the whole of the *costs* demandable from him in the lower court, and given the necessary *security* to cover the costs in appeal.—Reg. XIV, 1829, Sec. ii, cl. 1.

The same rule shall be applicable, and the same mode of proceeding shall be observed, in the event of any person who may have instituted or defended any original suit, or prosecuted

or defended an appeal in a Civil Court, becoming an inhabitant of a foreign territory, before a decree is passed on such suit or appeal, and failing to give the required security within six weeks of its being demanded by the Court, and such demand the Court is required to make immediately on the circumstance becoming known, even though no motion should be made to that effect.—Reg. XIV, 1829, Sec. ii, cl. 2.

It is however provided, that nothing contained in the above provisions shall be considered applicable to *pauper* suitors — Reg. XIV, 1829, Sec. ii, cl. 3.

NOTE.—By Act III, 1845, it it is provided that the taking security for costs in appeal shall be left to the discretion of Courts; but that provision will probably not be considered applicable to the parties here referred to.

ACTIONS; *Sovereign Native Princes, by or against.*

In cases in which Sovereign native princes, whether residing within the British territories or otherwise, shall have claims to prefer, as individuals, to lands or other things, the cognizance of which is vested by the general constitution of the country in the Courts of Civil Judicature, it shall be competent to the Governor-General in Council to order a suit to be instituted, through the medium of the public officers, for the recovery of the lands or other things which may be so claimed, in the Court, which, on the principles of the general regulations, is authorized to inquire into and decide upon the right to the disputed property.—Reg. IV, 1812, Sec. ii, cl. 1.

In like manner, should a suit be instituted in any of the established Courts of Civil Judicature, by any Zemindar or other person, for the recovery of lands or other things in the occupancy of any native prince, whom it would be improper to require to defend the action himself, it shall be competent to the Governor-General in Council to order such suit to be defended by the public officers.—Reg. IV, 1812, Sec. ii, cl. 2.

Suits which may be instituted or defended under the preceding rules shall be conducted by the Collectors of Land revenue, aided by the *Vakeels* of Government at the several Civil Courts, under the directions of the Boards of Revenue; which Boards will, of course, on all such occasions be furnished by the Governor-General in Council with such information and instructions as may appear necessary to enable them duly to superintend the conduct of the prosecution or of the defence.—Reg. IV, 1812, Sec. iii.

In all original suits and appeals in which Government may be a party, under the provisions of the present Regulation, the Court which may pass judgment shall, in addition to the copies of the decrees required to be delivered to the parties, transmit a summary of the decree with as little delay as possible, in the English lan-

guage, to the Secretary to Government in the Judicial department, for the information of the Governor-General in Council, who, on receipt of such summary, will issue any orders to the Boards of Revenue which the case may appear to require, or will cause the necessary Notification to be made to the person on whose behalf the cause shall have been prosecuted or defended, of the final judgment given on the action. —Reg. IV, 1812, Sec. iv.

ACTIONS; *Nawab Nazim of Bengal; notice; reference; security.*

In complaints brought before any Civil Court, in which it shall appear, either by the application of the Nazim or the representation of the defendant, at or before the time of giving in his or her answer, or by the petition of the complainant, that both parties are servants or relations of his Excellency, or the widows or female descendants of the former Nazims of Bengal, the parties are to be referred for justice to the Nazim, or to any person whom he may appoint to dispense it. Upon a complaint being preferred against any servant or servants of his Excellency by persons of a different description, the Court in which the complaint may be instituted is either to refer it to his Excellency, or to hear it in the ordinary manner, according to its discretion, taking care at all times, and in all matters, to pay every proper attention to the dignity and long-established rights of the Nawab. Provided, however, that in all cases, in which either the plaintiff or defendant shall prefer the jurisdiction of the Court to that of the Nazim, the Judge is to try and determine the suit in the same manner as if neither of the parties had been persons of the description specified in this section.—Reg. XVI, 1793, Sec. x. *(Repealed by Act* xxvii, *of* 1854.)

All references which the officers in the Judicial department may have occasion to make to the Nawab of Bengal under the provisions contained in the preceding Section; and generally, all other applications which those officers may deem it necessary to make to the Nawab, shall be transmitted to his Highness through the channel of the officer holding the appointment of Superintendent of Nizamut affairs.—Reg. XIX, 1805, Sec. ii. *(Repealed as above.)*

All applications which the Collectors of the Land revenue in the different zillahs or the Collectors of Government Customs, or any other public officer, may find it necessary to make to the Nawab, on matters connected with their respective public duties, shall in like manner be transmitted to his Highness through the channel of the Superintendent of Nizamut affairs.—Reg. XIX, 1805, Sec. iii. *(Repealed as above.)*

Applications or references of the nature above described, may be transmitted by the public officers of Government, in the form of a letter in the Persian language addressed to his High-

ness the Nawab, under the signature of the person by whom such application may be made, and forwarded under an unsealed envelope to the Superintendent of Nizamut affairs; or the substance of the reference or application may be stated in an English letter, addressed to the Superintendent of Nizamut affairs, who will, without loss of time, make the necessary communication to the Nawab, and forward his answer to the officer of Government from whom the application may have been received.—Reg. XIX, 1805, Sec. iv. *(Repealed as above.)*

Whenever an application may be made in writing addressed to his Highness the Nawab, one established address, suitable to the high rank of the Nawab, and to the official situation of the person by whom the application may be made, shall be observed, agreeably to the form contained in the Persian transcript of this Regulation.—Reg. XIX, 1805, Sec. v. *(Repealed as above.)*

All applications to her Highness the Munnee Begum, to the Buhhoo Begum, or to the Walideh Begum, or to the brothers of his Highness the Nawab, sons of the late Nawab Mobarek-ul-Dowlah, or to his brothers by marriage with the daughters of his father, shall be addressed, according to the form above-prescribed, to his Highness the Nawab, and forwarded through the Superintendent of Nizamut affairs.—Reg. XIX, 1805, Sec. vi. *(Repealed as above.)*

Should it, on any occasion, appear to the Superintendent of Nizamut affairs that the reference or application, which he may be desired to make to the Nawab, is liable to objections, either from its tenor or from defect of form, the Superintendent may, in such case, delay the communication of it to the Nawab, and report the circumstances to the Governor-General in Council, who will pass such orders on the subject as the case may appear to require.—Reg. XIX, 1805, Sec. vii. *(Repealed as above.)*

NOTE.—*The following Act was passed after the preparation of this Digest.*

Whereas it is expedient to repeal such parts of the Bengal Regulations as relate to the Nazim of Bengal, his servants, and relations, and to make better provision for the execution of process within the precincts of the palace of the Nazim at Moorshedabad;—It is enacted as follows:

Section x, Regulation XVI, of 1793, Regulation XIX, of 1805, Regulation XVI, of 1806, and Regulation XIX, of 1825, of the Bengal Code, are hereby repealed.—Act XXVII, of 1854, Sec. i.

When any process, issued by any Civil Court, Collector, or other Revenue officer, in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process shall be transmitted to the Superintendent of the Af-

fairs of the Nizamut, or other officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut; and such Superintendent or other officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done therein.—Sec. II, of the above Act.

When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or officer exercising the powers, or any of the powers of a Magistrate, in the Territories of the East India Company, is required to be served or executed within the precincts of the Palace of the Nazim at Moorshedabad, such process may, at the discretion of the Court or officer issuing the same, be transmitted to the Superintendent of the Affairs of the Nizamut or other officer, however denominated exercising for the time being the control and superintendence of the affairs of the Nizamut; and in such case, such Superintendent or other officer shall cause such process to be served or executed, according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon. —Sec. III of the above Act.

Every certificate returned by the Superintendent or other officer aforesaid, under this Act, shall, in all cases, be admitted as *prima-facie* proof of the truth of the matter stated therein.—Sec. IV of the above Act

It shall be lawful for the Government of Bengal to define, for the purposes of this Act, by Notification in the Calcutta Gazette, the limits of the precincts of the Palace of the Nazim at Moorshedabad; and from time to time in like manner to alter such limits.—(Sec. V of the above Act.)

ACTIONS; *to be tried in turn.*

The Judges of the Zillah and City Courts are to order the causes depending in their respective Courts to be brought on for trial according to the order in which they may be filed; *except* in cases in which it may be otherwise directed by any Regulation, or in which the Judge may think it proper for special reasons, which he is to state at large upon the record of the trial, to bring on the cause before its turn. The causes for the trial of which a day may be appointed by the Judge shall be entered in a book, and on the day fixed, shall be called on for trial, in the order in which they may have been entered. A paper containing a *list* of the causes, and the day appointed for the trial of them, is to be *fixed up* in some conspicuous part of the Court-room.—Reg IV, 1793, Sec. XIX. (Vide C. O. 30th Dec. 1853. No. 35.)

APPEAL; *attachment and security; pending.*

The provisions of Sections V and VI, Regulation II, 1806, shall be held applicable in all cases wherein an attachment of

property made by a Court in an original suit may be continued during the trial of an appeal before a Superior Court, or in which such Superior Court may judge it proper to order an attachment of property in default of security being given, as required, either by the appellant or respondent, in any depending appeal.—Reg. II, 1806, Sec vii.

The Judges of the several Courts by which security may be taken from appellants or respondents for performing the decrees to be passed on appeals, are enjoined to be particularly careful in ascertaining that the security received is *good* and sufficient; and they are required, in all cases, to cause the Nazir or other officers by whom the property of the sureties may be ascertained, to deliver in as accurate a statement as can be obtained of such property, with a full *report* of the inquiry made respecting it; informing him, at the same time, that he will be held *responsible* for any wilful misrepresentation in his statement or report.—Reg. XIII, 1808, Sec. xiii.

APPEALS; *default.*

If a plaintiff or appellant in any Court shall at any time neglect to proceed in his suit or appeal for *six weeks*, the suit or appeal shall be dismissed; and it shall *not* be *necessary to give* the plaintiff or appellant *any notice previous to dismissing* his suit or appeal. The suit or appeal shall be dismissed *as of course* after the expiration of six weeks, without any proceeding on the part of the Court, or of the defendant, or otherwise, or assignment of any reasons, unless the plaintiff or appellant, or his representative in case of his death, upon special application, shall have previously satisfied the Court of the propriety of allowing further time. The Court shall record upon the proceedings the *reasons* at large *for* allowing *further time* in all cases in which further time may be allowed; but it shall not be necessary to specify the reasons for refusing any application for further time.—Act XXIX, 1841, Sec. i.

In all cases in which a suit or appeal is dismissed under the preceding Section, the Court shall award to the *defendant* or *respondent* the *costs* he may have incurred in the suit or appeal. But such dismissal shall be *no impediment* to the institution of a *new suit* or appeal, where the party is not precluded by lapse of time, or period of appeal, or otherwise than by the mere circumstance of having instituted the suit or appeal dismissed, and of such dismissal; and such dismissed suit or appeal shall not prevent lapse of time under the law of limitations being incurred.—Act XXIX, 1841, Sec. ii.

No appeal shall lie against the decision passed in accordance with the provisions of the preceding sections, other than a *summary appeal* on the fact of default.—Act XXIX, 1841, Sec. iii.

Whenever an appeal in any Civil Courts shall have been dismissed under the provisions of Act XXIX, of 1841, it shall be competent to the Court which shall have dismissed such appeal to *re-admit* the same, if the appellant shall make application for that purpose on the stamp prescribed for miscellaneous petitions, *within three months* after the appeal shall have been dismissed, if dismissed by the Sudder Court, and *within one month* after the appeal shall have been dismissed, if dismissed by any other Court, and shall *satisfy* the Court that the dismissal was occasioned by the default of his Vakeel or by unavoidable accident.—Act XVI, 1845, Sec. i.

Provided always that no appeal which has been *re-admitted* under this Act, and again dismissed under the provisions of Act XXIX, of 1841, shall be *again re-admitted*. Act XVI, 1845, Sec. iii.

In any Civil Court, every *default* of a plaintiff or appellant, in all suits or appeals, and in all suits open to appeal, shall be held to be *cured*, whenever the opposite party, passing over the default, shall have taken any step in the suit or appeal, and whenever the Court shall have passed judgment in the suit or appeal, whether such opposite party shall or shall not have taken any such step. Act XVII, 1847.

APPEALS; *Ordinary jurisdiction of Appellate Courts.*

An appeal shall lie to the Zillah or City Judges from all decisions which may be passed on the trial of original suits by the *Moonsiffs* and *Sudder Ameens;* and the decisions thereupon shall be final, except on special appeals under Act XVI, 1853.—Reg. XXIV, 1814, Sec. vi, cl. 2; Reg. V, 1831, Sec. xxviii, cl. 1; Act XVI, 1853, Sec. iv.

In all suits originally decided by the Principal Sudder Ameens, the amount or value of which may *not exceed* 5000 rupees, and in respect of all interlocutory orders passed by them in such suits, an appeal shall lie to the Zillah or City Judge, and a further or special appeal to the Sudder Dewanny Adawlut; but in all suits *exceeding the above* amount or value, and in respect of all interlocutory orders in such suits, the appeal from the decision of such Principal Sudder Ameen shall be direct to the Court of Sudder Dewanny Adawlut, and shall be conducted in all respects and according to the same rules as if it were an appeal from the decision or interlocutory orders of a Zillah Judge to the said Court of Sudder Dewanny Adawlut.—Reg. V, 1831, Sec. xxviii, cl. 2; Act XXV, 1837, Sec. iv; Act VI, 1843, Sec. ii.

Whenever a Zillah or City Judge shall have referred for trial to a Principal Sudder Ameen a suit within the competency of a Moonsiff to decide, and such suit shall have been decided by a Principal Sudder Ameen, the appeal from such decision shall lie to the Zillah or City Judge, and shall be

tried by him only, and the decision of the Zillah or City Judge on such appeal shall be final, anything in the existing Regulations to the contrary notwithstanding.—Act XXV, 1837, Secs. v and vi.

In all suits originally decided by the Zillah or City Judge, an appeal shall lie to the Sudder Dewanny Adawlut.—Reg. V, 1831, Sec. xxviii, cl. 3.

APPEALS; *General rules; to whom to be presented; how; informality; security; copy of decree; statement of grounds; stamp; record of receipt; calculation of period; reasons for admitting after; manner of trial; Vakeels; valuation; record; evidence; when there is no law; notice to respondents; Principal Sudder Ameen; trial on merits, even with technical defect; interest; execution.*

All petitions of appeal from decisions of the Moonsiffs and Sudder Ameens are to be presented to the Judge of the Zillah or City in which the Moonsiffs or Sudder Ameens may officiate, and those officers are prohibited from receiving any petitions of appeal from their own decisions.—Reg. XXIII, 1814, Sec. xlvi, cl. 2, and Sec. lxxiii.

All petitions of appeal from decisions of Moonsiffs and Sudder Ameens are to be presented by the appellant in person, or by one of the authorized vakeels of the Court; and if the appeal shall be admitted, and the appellant and respondent shall not plead their cause in person, their respective vakeels are to be allowed the same *fees* as in other suits tried before the Judge.—Reg. XXIII, 1814, Sec. xlvi, cl. 3, and Sec. lxxiii.

Decisions of the Moonsiffs and Sudder ameens are not to be set aside for want of form or for irregularity in their proceedings, but on the merits only.—Reg. XXIII, 1814, Sec. xlvi, cl. 4, and Sec. lxxiii.

When an appeal may be received from the decision of a Moonsiff or a Sudder Ameen, the Judge is empowered to suspend the execution of the decree, provided the party appealing against it shall give good and sufficient *security* within a reasonable period to be fixed by the Judge, to perform the decree of the Court.—Reg. XXIII, 1814, Sec. xlvi, cl. 5, and Sec. lxxiii.

Any party who may be desirous of appealing from a judgment passed against him by a Principal Sudder Ameen, which may be appealable to the Zillah Court shall be at liberty to present his *petition* of appeal, without an authenticated copy of the decree, to the Court in which the decision may have been passed. Such petition of appeal shall not be required to contain the specific grounds or reasons of the appeal, but may *state shortly* that the party being dissatisfied with the judgment is desirous of appealing from it. The petition must be written on *stamped* paper, according to the rates and provisions contained in No. 8, Schedule B, Regulation X, 1829.—Reg. XXVI, 1814, Sec. viii, cl. 2.

NOTE.—The option of pre-

senting the petition of appeal in the Court of original jurisdiction, or in the Court appealed to, is left to the Principal Sudder Ameen only, as representative of the Register, in suits appealable from that officer to the Zillah Court. Petitions of appeal from the Sudder Ameens and Moonsiffs must be presented in the Zillah Court, and those to the Sudder Dewanny Adawlut in the Court appealed from.

The Principal Sudder Ameen after referring to the decree in the original record of the suit, shall then admit the appeal; provided that the petition of appeal shall have been duly presented in the mode above prescribed, within the periods limited for the admission of such appeals under the existing Regulations —Reg. XXVI, 1814, Sec. VIII, cl. 3

The specific objections to the judgment and detailed grounds and reasons for preferring the appeal may be stated at the option of the party in the original petition of appeal, or may be subsequently filed in the Court trying the appeal as a separate pleading In the latter case, such pleading is to be written on the stamped paper, and according to the rates prescribed for other pleadings in No. 9 Schedule B, Regulation X, 1829.—Reg. XXVI, 1814, Sec. VIII, cl. 5.

Under the preceding rules, parties in suits decided in the first instance in the Court of a Principal Sudder Ameen, and appealable to the Zillah Court, will be enabled to prefer an appeal from such decision *without* the necessity of filing an authenticated *copy* of the decree; but if any party in a suit which may be so appealable to a Zillah Court may be desirous, under the option allowed by the Regulations, of presenting his petition of appeal in the Court by which the appeal is to be tried, rather than in the Court by which the decision may have been passed in the first instance, it shall be requisite for such party to file with his petition of appeal an authenticated copy of the decree.—Reg. XXVI, 1814, Sec. VIII, cl 7.

For the purpose of obtaining an authenticated *copy* of the decree, the party desiring it shall furnish to the Court by whom the decision may have been passed, one, two, or more sheets or rolls of the stamped paper prescribed in No. 2, Schedule B, Regulation X, 1829, as may be necessary for transcribing the decree.—Reg XXVI, 1814, Sec. VIII, cl. 8.

When such stamped paper shall be furnished, the Court shall cause to be endorsed on it, the *date* of its being furnished, the *name* of the party on whose account it may be presented, and the *number* of the suit to which it may be intended to be applicable, and shall grant to the party a corresponding *receipt* for the same on unstamped paper; the copy of the decree shall then be prepared and duly authenticated, and shall be delivered or tendered to the

party by whom the stamped paper may have been furnished, or to his Vakeel in open Court, and the date of the delivery or tender of such copy shall be also endorsed on the copy.—Reg. XXVI, 1814, Sec. viii, cl. 9.

The respective *periods* limited by the Regulations *for* the admission of *appeals* shall be calculated from the date on which the decision may have been passed; excluding from the calculations of such period the interval which may have elapsed, in each instance, between the date on which the requisite stamped paper may have been furnished by the party to the Court, and that on which the copy of the decree may have been tendered or delivered to the party in open Court, in the mode prescribed by the Regulations. The Courts will, in all cases, be enabled to ascertain such interval by the endorsements on the copy of the decree required to be made under the preceding Clauses.—Reg. XXVI, 1814, Sec. viii, cl. 10.

The *principles* of the rules contained in the three last Clauses are to be considered *applicable* to all copies of decrees from which a party may be desirous of preferring a special or a summary appeal; and to all copies of orders passed by the Judges of the Zillah and City Courts, and by the Sudder Dewanny Adawlut, which those Courts may be required to furnish to parties under the provision of any Regulation.—Reg. XXVI, 1814, Sec. viii, cl. 11.

Whenever a Court of appeal shall admit an appeal which may have been preferred to them *after* the limited *time* they are to enter on the record of the trial their *reasons* at large for admitting the appeal.—Reg. V, 1793, Sec. xii; Reg. VI, 1793, Sec. x.

In the hearing, trying, and deciding of regular appeals, the Zillah Judges, and the Principal Sudder Ameens when appeals are referred to them by the Zillah Judges, are to be guided generally by the same rules as are prescribed to the Courts of original jurisdiction in respect of original suits.—Adapted from Reg. V, 1793, Sec. xi; Reg. VI, 1793, Sec. vii; Reg. V, 1831, Sec. xviii, cl. 4.

In appeals which may be preferred to the Courts of Appeal, no *proceedings* are to be held, or any acts whatever done either on behalf of the appellants or respondents, except by the appellants or respondents themselves, or by a Vakeel admitted to plead in the Court under Act I, 1846; nor by any Vakeel before his vakalutnamah shall have been filed in the Court; and no persons, excepting such parties or their witnesses, or such vakeels, shall be heard, *vivâ voce*, in any stage in the cause.—Reg. V, 1793, Sec. xxii, and Reg. VI, 1793, Sec. xx.

In all regular appeals the petition is to state (respect being had to the matter decreed) the annual *produce* of the lands, whether *lakhiraj* or *malguzary*, the sum of money or the *value* of

the property which may be decreed, the *name* of the person in whose favour the decree may be given, the *Court* in which it may have been passed, *when* it was made, *what* was decreed by it, and whether the decree has been *executed*.—Reg. V, 1793, Sec. xii; Reg. VI, 1793, Sec. x.

The *pleadings* in appealed suits shall be conducted and filed in the same manner and under the same rules as pleadings in original suits, subject to the following modifications.—Reg. XXVI, 1814, Sec. ix, cl. 1.

NOTE.—Act XV, 1853, having repealed Act IV, 1850, and Secs. ii, iii, and iv, of Act XXX, 1850, which related to appeals to the Sudder Dewanny Adawlut, the following provisions seem to be still applicable to appeals from the lower Courts to the Zillah Courts, which stand in the same relation to those Courts as the Provincial Courts did to the Zillah Courts under Reg. V, 1793. The following provisions are therefore retained as applicable in *appeals to the Zillah Courts*.

In all regular *Civil suits* which may be *appealed* to a Zillah or City Court, or to the Sudder Dewanny Adawlut, it shall be left to the option of the respondent either to file an *answer to* the petition and reasons of *appeal*, or not, as he may judge proper: Provided, however, that if no answer shall be filed by a respondent, it shall be competent to the Court trying the appeal, in all cases in which it may be deemed expedient, to direct the respondent to file an answer to the petition of appeal, or to any particular points in it which may appear to require an answer or explanation.—Reg. XXVI, 1814, Sec. ix, cl. 2.

No further pleadings beyond the answer of the respondent shall be admitted in any appealed suits, except the duplicate of the plaint provided for by Clause 1, Section vii, Regulation XXVI, 1814, or such supplemental pleadings as may be authorized by the Court under the provisions of Clause 3, Section vi, of that Regulation. Reg. XXVI, 1814, Sec. ix, cl. 3.

Fifteen days after the receipt of the appeal, the Court from which the appeal may have been preferred, is to *certify*, under the hand of the Judge and the seal of the Court, to the Court to whom the appeal has been preferred, the record as duly made up and authenticated, including the original pleadings, depositions, &c., exhibits filed in the case with a list of them; it shall not be necessary, in the first instance, to transmit the applications and processes for the attendance of witnesses, the returns of the Nazir, and other miscellaneous papers and proceedings not material to the trial of the appeal: Provided, however, that it shall at all times be competent to the Court to which the appeal shall have been made, to call for such miscellaneous papers, or to direct the parties to produce copies of the same, should the Court

think it necessary to refer to them. Previous to transmitting the above-mentioned papers, the Judge of the Court from which the appeal has been preferred, is to cause true and faithful *copies* of all the originals to be made out and deposited in his Court, in lieu of the originals. The copies are to be deemed *records* of the Court, and are to be received in evidence in any other Court. In cases where any original deposition, or other original proceedings or matter whatsoever, shall have been previously entered in the Court, in any book which may likewise contain either proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the Court appealed to without the other proceedings or matters, the Judge of the Court appealed from in the manner before directed, is to *certify a* true and authentic *copy* of such original papers, and that the original of each copy transmitted is so entered in such book. But he is, nevertheless, to *transmit* the original pleadings of the parties, and the original exhibits which shall have been delivered in or produced by the parties, and read in the course of the cause before the Court, if they be forthcoming, in the manner before required. In cases where any *original* paper shall have been *mislaid* or lost, and a copy of it shall have been entered in any book of proceedings, the copy is to be deemed the original, and the Judge is to transmit a *copy* of it to the Court appealed to, and in like manner to *certify* it, and that the original, after due search, cannot be found.—Reg. V, 1793, Sec. xiii; Reg. VI, 1793, Sec. xi; Reg. IX, 1831, Sec. viii.

The Courts of Appeal shall be guided by the provisions of Act XIX, 1853, in respect of the attendance and examination of witnesses, and all matters to which that Act relates.—Adapted from Act XIX, 1853.

The petition of appeal, pleadings, depositions, and exhibits in the Courts of Appeal, are to be *numbered, marked, dated,* and *signed* in the same manner as the complaint, pleadings, depositions, and exhibits are ordered to be numbered, marked, dated and signed in the Courts of original jurisdiction. The decrees are to be signed by the Judges, and attested, and copies so signed and attested are to be delivered to the parties.—Reg. V, 1793, Sec. xxix; Reg. VI, 1793, Sec. xxviii.

In cases for which *no specific rules* may exist, the Courts of appeal are to act according to justice, equity, and good conscience.—Reg. V, 1793, Sec. xxxii; Reg. VI, 1793, Sec. xxxi.

Whenever an appeal shall be preferred to a Zillah or City Judge from the decision of any Moonsiff, Sudder Ameen, or Principal Sudder Ameen, and whenever any such appeal may be referred by a Zillah Judge to a Principal Sudder Ameen, under

Section i, Act VIII, of 1850. it shall not be necessary to serve any process, on the respondent in the first instance; and if, after the perusal of the record of the original suit and the petition of appeal in the presence of the appellant or his Vakeel, the Judge or Principal Sudder Ameen shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, and to communicate the order for confirmation, through the Court from whose judgment the appeal was made, to the respondent, with a view to enable such respondent to take immediate measures for the execution of the decree.—Reg. V, 1831, Sec. xvi, cl. 3; Act VIII, 1850, Sec. i.

Every Judge and Principal Sudder Ameen who shall confirm any decision under the preceding rules without giving notice to the respondent, shall record his *reasons* for *rejecting* the appeal.—Act VIII, 1850, Sec. ii.

The Courts of Appeal are empowered in cases of appeals, in which it shall appear to them that the original suit has not been sufficiently investigated in the lower Court, or for any other cause that may be deemed reasonable by the Court of appeal, either to *receive* such *further evidence* as they may think necessary for the just determination of the suit, and to give judgment upon it, *or* to *refer* the suit *back* to the Court in which it orginated, accompanied by such special directions to the Judge with regard to the new evidence he is to receive respecting it, as may be deemed by the Court most conducive to justice and the convenience of the parties and witnesses. But in every case in which the Court of appeal may exercise the power above vested in them by this Section they are to enter upon the record of the trial their *reasons* for having exercised it. In cases in which the Court may judge it proper to receive such further evidence themselves, they are empowered to examine the witnesses to be produced, *vivâ-voce*, in open Court, in conformity with the rules in that behalf contained in Act XIX, 1853.—Reg. V, 1793, Sec. xviii: Reg. VI, 1793, Sec. xvi.

It shall not be competent to a Zillah or City Judge to refer any appeal for trial to a Sudder Ameen; but whenever it may appear to any such Zillah or City Judge that his file is so heavy as to make it impracticable for him to dispose of all the appeals which may be pending with reasonable despatch, he shall make a special report of the case to the Sudder Dewanny Adawlut, soliciting permission of that authority to refer such specified number of appeals from the decisions of Moonsiffs or Sudder Ameens, as he may deem necessary for trial, to the Principal Sudder Ameen attached to his Court, in which case it shall be competent to the Court of Sudder Dewanny Adawlut to comply

with the application for the transfer.—Reg. V, 1831, Sec. xvi, cl. 2.

In the trial of any appeal or on the hearing of any petition of appeal from any decision or order of any Court of inferior jurisdiction, if *a single Judge* of the Sudder Dewanny Adawlut, or a *Zillah or City Judge*, or a *Principal Sudder Ameen* to whom such appeal has been referred by a Zillah or City Judge, shall be of opinion that no sufficient ground has been shown to impugn the correctness or justness of such decision or order, it shall be competent to such Judge, without reference to the order of the file, to confirm the same, *without the attendance of the opposite party*, and with or without a revision of the whole proceedings, as the nature of the case may appear to require. On the other hand, if a single Judge shall be of opinion that the decision or order appealed against ought to be altered or reversed as being manifestly unjust or at variance with some Regulation in full force, or in opposition to the Hindoo or Mahomedan law, or other law applicable to the case, or as having been passed without sufficient investigation of the merits, or as grounded on an assumption, obviously erroneous or irrelevant, with reference to the points at issue, it shall be competent to such *single Judge* of the Sudder Dewanny Adawlut, *Zillah Judge*, or *Principal Sudder Ameen*, to issue an injunction pointing out the irregularity, illegality, or other defect apparent in the proceedings, decision, or order appealed against, and requiring that the Court by which the same may have been held or passed, shall revise the case, and proceed thereon in such manner as may appear conformable to justice and to the Regulations.—Reg. IX, 1831, Sec. ii, cl. 2; Act VII, 1838; Act XXVI, 1852, Sec. ix.

No order or decision of any of the Civil Courts of the East India Company shall be *reversed*, altered, or remanded on account of any *error*, defect, or irregularity, *not* productive of *injury* to either party.—Act IX, 1854. (V. Preamble of Act.)

To prevent the encouragements of litigious appeals, the *Provincial* Courts of Appeal, in all cases wherein they may confirm the decree of the lower Court, are to adjudge interest at the rate of one per cent. per mensem, on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree, and are authorised to punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party and the circumstances of the case.—Reg. XIII, 1796, Sec. iii.

Decrees passed in the Courts of the Judges or Principal Sudder Ameens, in cases of appeal from the decisions of the Sudder Ameens or Moonsiffs, shall be *executed* by the Courts in which the original decisions were passed, under the general rules

prescribed for the execution of decrees passed by those Courts; —applications for the execution of such decrees shall be presented, together with a certified copy of the decree of the Judge or Principal Sudder Ameen, to the Court of original jurisdiction. In appeals from the orders of the Moonsiff or Sudder Ameen in such cases, the *decision* of the Zillah or City *Judge* shall be *final*.—Act VI, 1843, Sec. v.

APPEALS; *periods allowed for; holidays; copies.*

In all cases in which an appeal from the orders or decision of a Principal Sudder Ameen, Sudder Ameen or Moonsiff, to a Zillah or City Judge is authorised by law, such appeal shall not be received, unless the same be preferred within the period of *thirty days* from the date of the order or decision of the said Principal Sudder Ameen, Sudder Ameen or Moonsiff, to be calculated according to the *rules* in Cl. 10, Sec. viii, Reg. XXVI, of 1814; or unless it shall be proved that the appellant was prevented by circumstances beyond his control from presenting his appeal within the above-mentioned period.—Reg VII, 1832, Sec. ii, cl. 3; Act XXV, 1837, Sec. ix.

It is hereby declared that the foregoing limitations shall be strictly adhered to, notwithstanding the intervention of Hindoo or Mussulman *holidays*, or the established vacations, within the prescribed periods for preferring appeals. When such periods, however, may expire during an adjournment of the Court, on account of any holiday or vacation, no default shall attach to the appellant, provided his petition of appeal be presented immediately on the *re-opening of the Court*—Reg. VII, 1832, Sec. ii, cl. 4.

Any person dissatisfied with the decision of a Moonsiff or a Sudder Ameen, shall be at liberty to appeal from it to the Judge, provided the petition of appeal be presented within *thirty days* after the date on which *copies* of the decrees may have been *furnished or tendered* to the parties or to their vakeels. A *discretionary* power, however, is vested in the Judge of admitting appeals from decisions of the Moonsiffs and Sudder Ameens, although the petitions may not be presented within the prescribed period, if the appellant shall show satisfactory cause for not having before presented the petition.—Reg. XXIII, 1814, Sec. xlvi, cl. 1, and Sec. lxxiii.

APPEAL; *to her Majesty in Council.*

ORDERS OF HER MAJESTY IN COUNCIL.

AT THE COURT AT BUCKINGHAM PALACE,

The 13th day of June, 1853.

NOTE.—These orders are given, and also those following, as though they are not in the Editions of the Indian Laws, they are intimately connected with those Laws. *For the Laws, vide pp.* 33, and 36.)

Whereas, there was this day read at the Board a report from

the Right Honourable the Lords of the Judicial Committee of the Privy Council, dated the 30th May last past, humbly setting forth that the Lords of the Judicial Committee have taken into consideration the practice of the Committee, with a view to greater *economy, despatch, and efficiency* in the Appellate jurisdiction of Her Majesty in Council, and that their lordships have agreed humbly to report to Her Majesty that it is expedient that certain changes should be made in the existing practice in appeals, and recommending that certain rules and regulations therein set forth should henceforth be observed, obeyed, and carried into execution, provided Her Majesty is pleased to approve the same:

Her Majesty, having taken the said report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules and Regulations set forth therein, in the words following, videlicet:—

I. That, any former usage or practice of Her Majesty's Privy Council notwithstanding, an appellant who shall succeed in obtaining a reversal or material alteration of any judgment, decree, or order appealed from, shall be entitled to recover the *costs* of the appeal from the respondent, *except* in cases in which the Lords of the Judicial Committee may think fit otherwise to direct.

II. That the Registrar or other proper officer having the custody of records in any Court or special jurisdiction from which an appeal is brought to Her Majesty in Council, be directed to send by post, with all possible despatch, one certified copy of the *transcript* record in each cause, to the Registrar of Her Majesty's Privy Council, Whitehall; and that all such transcripts be registered in the Privy Council Office, with the date of their arrival, the names of the parties, and the date of the sentence appealed from; and that such transcript be accompanied by a correct and complete *index* of all the papers, documents, and exhibits in the cause; and that the Registrar of the Court appealed from, or other proper officer of such Court, be directed to *omit* from such transcript all merely *formal* documents, provided such omission be stated and certified in the said index of papers; and that special care be taken not to allow any document to be set forth more than once in such transcript; and that no other certified copies of the record be transmitted to agents in England, by or on behalf of the parties in the suit; and that the fees and expenses incurred and paid for the preparation of such transcript be stated and certified upon it by the Registrar or other officer preparing the same.

III. That when the record of proceedings or evidence in the cause appealed, has been printed or partly printed abroad, the Registrar or other proper officer of the Court from which the

appeal is brought, shall be bound to send home the same in a *printed* form, either wholly or so far as the same may have been printed, and that he do certify the same to be correct, on two copies, by signing his name on every printed sheet, and by affixing the seal, if any, of the Court appealed from to these copies, with the sanction of the Court.

And that in all cases in which the *parties* in appeal shall think fit to have the proceedings *printed abroad*, they shall be at liberty to do so, provided they cause *fifty copies* of the same to be printed in folio, and transmitted, at their expense, to the Registrar of the Privy Council, two of which printed copies shall be certified as above by the officers of the Court appealed from; and in this case *no further expense* for copying or printing the record will be incurred or allowed in England.

IV. That on the arrival of a written transcript of appeal at the Privy Council Office, Whitehall, the appellant, or the agent of the appellant prosecuting the same, shall be at liberty to call on the Registrar of the Privy Council to cause it, or such part thereof as may be necessary for the hearing of the case, and likewise all such parts thereof as the respondent or his agent may require, *to be printed* by Her Majesty's printer, or by any other printer on the same terms, the appellant or his agent engaging to pay the cost of preparing a copy for the printer, at a rate not exceeding one shilling per brief sheet, and likewise the cost of printing such record or appendix, and that *one hundred copies* of the same be struck off, whereof thirty copies are to be delivered to the agents of each side, and forty kept for the use of the Judicial Committee; and that *no other fees for* solicitors' *copies* of the transcript, or for drawing the joint appendix, be henceforth allowed, the solicitors on both sides being allowed to have *access to the original papers* at the Council Office, and to extract or cause to be extracted and copied such parts thereof as are necessary for the preparation of the petition of appeal, at the stationer's charge, not exceeding one shilling per brief sheet.

V. That a certain time be fixed within which it shall be the duty of the appellant or his agent to make such application for the printing of the transcript, and that such time be within the space of *six calendar months* from the arrival of the transcript and the registration thereof, in all matters brought by appeal from Her Majesty's colonies and plantations east of the Cape of Good Hope, or from the territories of the East India Company, and within the space of *three months* in all matters brought by appeal from any other part of Her Majesty's dominions abroad; and that in *default* of the appellant or his agent taking effectual steps for the prosecution of the appeal within such time or times respectively, the appeal shall

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stand dismissed without further order, and that a report of the same be made to the Judicial Committee, by the Registrar of the Privy Council at their Lordship's next sitting.

That whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a *question of law*, the agents of the parties, with the sanction of the Registrar of the Privy Council, may submit such question of law to the Lords of the Judicial Committee in the form of a *special case*, and print such parts only of the transcript as may be necessary for the discussion of the same; provided that nothing herein contained shall in any way bar or prevent the Lords of the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit; and that in order to promote such arrangements and simplification of the matter in dispute, the *Registrar* of the Privy Council may call the agents of the parties before him and having heard them, and examined the transcript, may *report* to the Committee as to the nature of the proceedings.

And Her Majesty is further pleased to order, and it is hereby ordered, that the foregoing Rules and Regulations be punctually observed, obeyed, and carried into execution in all appeals or petitions and complaints in the nature of appeals brought to Her Majesty, or to her heirs and successors in Council, from Her Majesty's Colonies and Plantations abroad, and from the Channel Islands or the Isle of Man, and from the territories of the East India Company, whether the same be from Courts of Justice or from special Jurisdiction, other than appeals from Her Majesty's Courts of *Vice-Admiralty*, to which the said *rules are not to be applied.*

Whereof the Judges and officers of Her Majesty's Courts of Justice abroad, and the Judges and officers of the superior Courts of the East India Company, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

W. L. BATHURST.

ORDER IN COUNCIL; *of the 10th April*, 1838, *made pursuant to 3 and 4 Wm. IV, c. 41, for regulating Appeals from the Supreme and Sudder Dewanny Courts in the East Indies, Prince of Wales Island, Malacca, and Singapore.*

Whereas, by an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the better Administration of Justice in his Majesty's Privy Council," it is amongst other things enacted, that "it shall be lawful for His Majesty in Council from time to time to make any such rules and orders as may be thought fit, for the regulating the mode, form, and time of appeal to be made from the decisions of the Courts of Sudder Dewanny Adawlut, or any other Courts of Judicature, in India or else-

where, to the eastward of the Cape of Good Hope (from the decisions of which an appeal lies to His Majesty in Council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expenses attending the said appeals, and as to the amount or value of property in respect of which any such appeal may be made:" and whereas His said late Majesty did, by his Order in Council, on the 16th day of January, 1836, approve certain rules and orders for regulating the mode, form, and time of appeal from the decisions of the said Courts of Sudder Dewanny Adawlut, and also *certain regulations* for the *preventing delays* in the making or hearing of such appeals and as to the expenses attending such appeals; and the said rules, *and* orders, and regulations were set forth in certain Schedules, A and B, to and by the said Order in Council of the 16th of January annexed and approved: and whereas His said late Majesty did, by his further Order in Council made on the 10th day of August, 1836, alter and amend the said Schedule B, by cancelling the Rule No. 5 of the said Schedule B so approved as aforesaid, and ordering that, in lieu of the said fifth rule thereof, a certain other rule in such last-mentioned order set forth should be substituted:* and whereas

* The rules contained in these orders were never acted on.

the Queen's Most Excellent Majesty in Council hath deemed it expedient to *cancel* and rescind all the *said rules*, orders and regulations, and to make and substitute others in lieu thereof:—

Her Majesty is therefore pleased, by and with the advice of Her Privy Council, to *cancel* and rescind *all* the said rules, orders, and regulations in the said recited *Orders in Council of the 16th day of January*, 1836, *and the 10th day of August*, 1836, respectively contained, and thereby or by either of them approved; and to approve of the several rules, orders, and regulations contained in the Schedule hereunder written or hereunto annexed, and to order, as it is hereby ordered, that the same be respectively observed by Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively, by the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, and by the said several Courts of Sudder Dewanny Adawlut, and all other Courts of Judicature in the territories under the Government of the East India Company, and by all persons whom it shall or may concern. Whereof the Governor-General and the Council of India, the Governor of Fort William in Bengal, the Governor in Council at Fort St. George, the Governor in Council at Bombay, the Governor of Agra, the Chief Justice and the Judges of Her Majesty's Su-

preme Court of Judicature at Fort William aforesaid, the Chief Justice and Judges of Her Majesty's Supreme Court of Judicature at Fort St. George, the Chief Justice and Judges of Her Majesty's Supreme Court of Judicature at Bombay, the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, the Judges of the several Courts of Sudder Dewanny Adawlut in the East Indies, and the Judges of all other Courts of Judicature in the territories under the Government of the East India Company, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) C. C. GREVILLE.

THE SCHEDULE ABOVE REFERRED TO.

That from and after the 31st day of December next, *no appeal* to Her Majesty, her heirs and successors, in Council, shall be allowed by any of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, Bombay, or the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, or by any of the Courts of Sudder Dewanny Adawlut, or by any other Courts of Judicature in the territories under the Government of the East India Company, *unless* the petition for that purpose be presented *within six calendar months* from the day of the date of the judgment, decree, or decretal order complained of, and *unless the value* of the matter in dispute in such appeal *shall amount to the sum of* 10,000 Company's Rupees at least; and that, from and after the said 31st day of December next, the limitation of 5,000*l.* sterling heretofore existing in respect of appeals from the Presidency of Fort William in Bengal shall wholly cease and determine.

That in all cases in which any of such Courts shall admit an appeal to Her Majesty, her heirs and successors in Council it shall specially *certify* on the proceedings that the value of the matter in dispute in such appeal amounts to the sum of 10,000 Company's Rupees or upwards, which certificate shall be deemed conclusive of the fact, and not be liable to be questioned on such appeal by any party to the suit appealed.

Provided nevertheless, that *nothing* herein contained shall extend, or be construed to extend, to take away, *diminish*, or derogate from the undoubted *power* and authority *of Her Majesty*, her heirs and successors, in Council, upon the petition at any time of any party aggrieved by any judgment, decree, or decretal order of any of the aforesaid Courts, to admit an appeal therefrom upon such other terms, and upon and subject to such other limitations, restrictions, and regulations as Her Majesty, her heirs and successors, shall in any such special case think fit to prescribe.

That on the *arrival of the transcript* of proceedings in an appeal to Her Majesty, her

heirs and successors in Council, from any of the said Courts of Sudder Dewanny Adawlut, or any other Courts in the East Indies constituted by the East India Company, or any of their Governments from which an appeal lies to Her Majesty in Council, such officer of the East India Company as the Court of Directors of the said Company shall from time to time appoint, shall forthwith give notice to the clerk of the Council thereof, stating at the same time the *names* of the parties to the appeal, and the *date* of the decree appealed from, and that such notice shall be duly *registered* in the Council Office.

That the said *transcripts* of proceedings shall be kept at the East India House, or at such other convenient place within the cities of London or Westminster, as the said Court of Directors shall from time to time appoint; the Agents respectively conducting and defending such appeals in this country, being at liberty to take all the necessary *copies* and *extracts* from the said proceedings, and to examine the same from time to time; and it shall be the duty of such officer, by himself or his sufficient deputy, to produce the *original transcripts before* the Judicial Committee, upon the hearing of such appeal, upon due notice for that purpose previously given, and upon all other occasions when thereunto required by the Privy Council or the Judicial Committee.

That in *default* of the petition of appeal of the appellants being lodged in the Council Office within three calendar months from the registration of the arrival of such transcripts, or in default of the appellant's case being carried on within *one year* from the time of such *registration*, the respondent shall be entitled in either case to move to *dismiss* the appeal for want of prosecution; and in the event of the respondent's not bringing in his case within one year from the time of such registration, the appellant shall be entitled to apply to have the case heard *ex parte*.

(Signed) C. C. GREVILLE.

APPEALS, SPECIAL; *may lie on what grounds; petition; period; lists of; time of hearing; separate petition; mode of hearing petitions, admission; rejections; certificate; review; and grounds of objection. Stamps of petitions of special appeals; value; security; refund of Stamp; pauper.*

A special appeal shall lie to the Sudder Courts from any decision passed on regular appeal in any of the Civil Courts subordinate to the said Sudder Courts respectively, on any of the following grounds, namely:

1st On the ground that the decision hath *failed* to determine all *material points* in difference in the cause, or hath determined the same *or* any of them *contrary to law* or usage having the force of law;

2nd. On the ground of a *misconstruction* of any document;

3rd. On the ground of any *ambiguity* in the decision affecting the merits;

4th. On the ground of any *substantial error* or defect in procedure, or in the investigation of the case, provided such error or defect be apparent on the record, and shall have produced, or be likely to have produced, any error or defect in the decision of the case upon the merits. Provided always that *no such* special *appeal* shall *lie*, nor shall any such decision be reversed, altered, or remanded by any of the said Sudder Courts, *upon* the ground that the decision of any question of *fact* is contrary to or not warranted by the evidence duly taken in the cause, or any probability deduced from the record.—Act XVI, 1853, Sec. iv.

A *petition of* special appeal may be presented in the Sudder Court, or it may be presented in the Court in which the decision objected to was passed, for transmission to the Sudder Court. In either case the petition must be presented within *three months* from the date of the decision appealed against, unless the petitioner can show just and reasonable cause to the satisfaction of the Sudder Court for not having presented it within such limited period.—Act XVI, 1853, Sec. v, cl. 1.

Every such petition of special appeal shall be accompanied by authenticated *copies of the decree* objected to and of the decree of the Court of original jurisdiction. If the appeal be presented in the Court in which the decree objected to was passed, such last mentioned Court shall forthwith forward the same to the Sudder Court with an endorsement thereon of the *date* on which it was presented, together with the copies of the decrees of the lower Courts by which it was accompanied.—Act XVI, 1853, Sec. v, cl. 2.

An application for an extension of the time for *presenting* a petition of special appeal may be made directly to the Sudder Court, or through the intervention of the lower Court, at the option of the applicant.—Act XVI, 1853, Sec. v, cl. 3.

Every *petition* for a special appeal shall *set forth* concisely and under distinct heads the *grounds* of objection to the decision appealed without any argument or narrative, and such grounds shall be numbered consecutively.—Act XVI, 1853, Sec. vi.

The Sudder Courts shall cause *lists of* the petitions which shall be presented for the admission of special appeals to be prepared weekly, and to be affixed in the Court-Houses of the said Sudder Courts respectively. The said lists shall set forth the dates on which such petitions are likely to be brought on for hearing, and the said Sudder Courts shall cause *extracts* from the said lists to be transmitted to the Courts in which the decisions on regular appeal were passed; such extracts shall be affixed in some conspicuous place in the last-mentioned

Courts, and extracts therefrom shall be transmitted by such Courts to the Courts in which the original suits were instituted, and such last-mentioned extracts shall be affixed in some conspicuous place in the said last-mentioned Courts. The time to be fixed by the Sudder Court for the hearing of any petition shall not be less than *six weeks* from the date of despatch of the extracts referring to the same from the Sudder Court. The date of the despatch of each extract shall be notified thereon.—Act XVI. 1853, Sec. vii, cl. 1.

At any time within the period of *one month* from the date of the despatch of the extracts referring to the appeal, or within such further time as the Sudder Court shall for just and reasonable cause allow for that purpose, the *respondent* may present a *separate petition of special appeal* in the Sudder Court upon any of the grounds upon which a special appeal will lie against any part of the decision of the lower Court not involved in the appeal of the opposite party, provided the respondent shall not previously have presented a special appeal in the cause. Such petition, however, shall not be inserted in any list to be prepared in pursuance of the preceding paragraph.—Act XVI, 1853, Sec. vii, cl. 2.

If the petition of appeal or the appeal of either party be *dismissed, withdrawn* or rejected, the application for appeal, or the appeal, as the case may be, of the other party, shall be heard alone according to the provisions of this Act; otherwise, all applications for special appeal and all admitted special appeals relating to the same decision, shall respectively be heard together, unless the Sudder Court shall otherwise order in any case.—Act XVI, 1853, Sec. vii, cl. 4.

It shall be lawful for *one or more of the Judges of the said Sudder Courts*, respectively, *to hear applications for special appeals*, duly presented as aforesaid, in the presence of the appellant, or his pleader, and also of the respondent or his pleader, or such of them as shall attend, and it shall be *competent for such Judge* or Judges to call for and peruse any document forming a part of the record of the cause: or to order the amendment of the petition of special appeal forthwith, or within such time as he or they may order, not exceeding one month from the date of such order; or to make an order of reference to the Court which pronounced the decree appealed from for further information or explanation; or to pass an order for admitting the appeal for hearing, or for rejecting the same; or, if it shall appear that the facts have not been sufficiently recorded, or that the *case* is otherwise so *insufficient* that the Sudder Court could not, if the appeal were admitted, pass a final decree thereon, but for no other cause, to issue an injunction, setting forth the errors, irregu-

larities, or other defects in the decision appealed against, and *remanding* the same to the Court by which the same shall have been passed, in order that such decision may be reviewed by the last-mentioned Court, and that such order or decree may be passed thereon as shall be conformable to law. Provided always that no such remand shall be ordered as aforesaid, except upon grounds whereon a special appeal will lie under this Act. *If* any such application shall be heard by only *two* Judges, and they *differ* in opinion as to admitting the appeal for hearing, it shall be *admitted*.—Act XVI, 1853, Sec. viii, cl. 1.

An order for admitting a special appeal for hearing shall specify, for the information of the Court, the *grounds* upon which it was admitted. But neither the Court nor the parties shall be confined to those grounds upon the hearing.—Act XVI, 1853, Sec. viii, cl. 2.

If an order be passed *for admitting* the special appeal for hearing, the case shall be brought on to the *file* of the Court to be heard and determined in due course.—Act XVI, 1853, Sec. viii, cl. 3.

If an order for *rejecting* a special appeal or for *remanding* a case be made by *one* Judge only, such order shall *not* be *final*, but it shall be laid before another Judge of the same Court, who shall hear the application for the appeal in the presence of the appellant or his pleader, and also of the respondent or his pleader, or such of them as shall attend. If the second Judge be of opinion that the appeal ought to be rejected or the case remanded, he shall pass a final order to that effect; if he be of opinion that the appeal ought to be admitted, he shall pass an order for admitting the same, and the appeal shall thereupon be admitted, heard and determined in due course, in the same manner as if it had been admitted in the first instance.—Act XVI, 1853, Sec. viii, cl. 4.

A final order for *remanding* a case shall not be made without *notice* to the respondent to enable him to appear and be heard.—Act XVI, 1853, Sec. viii, cl. 5.

Any Judge by whom an order for admitting a special appeal shall be made, may *certify* that in his judgment the decision of the lower Court is manifestly *erroneous* upon any of the grounds upon which a special appeal will lie, and thereupon the appeal may be set down for hearing in a list to be called the list of certified Special Appeals. All cases entered in such list may be *called up* in due course for hearing and decision according to the provisions of this Act, without regard to the general list of special appeals pending in the Sudder Court.—Act XVI, 1853, Sec. viii, cl. 6.

If an application for a special appeal be heard by a number of Judges, sufficient according to the provisions of this Act to hear and determine the appeal,

and it shall appear that the decision is *manifestly erroneous or* that the case ought *to be remanded*, the *appeal may be heard and determined forthwith*, if the respondent or respondents be present or represented by a pleader or pleaders; otherwise the Court may order the case to be entered in the list of certified appeals, and the same shall be entered accordingly.—Act XVI, 1853, Sec. viii, cl. 7.

Every order for *rejecting* a special appeal shall state the *reason* for disallowing *each of the grounds* set forth in the petition, and every such order of rejection may be once *reviewed* by the Judge or Judges by whom the same was passed, or by any Judge or Judges sitting for or instead of him or them, if they or he shall think fit to review the same. Provided that no such *review* shall be allowed unless application for the same be made within *three months* from the date of such order.—Act XVI, 1853, Sec. ix, cl. 1.

If any such order be *rescinded*, or if the Judges who shall review the same shall be *equally divided in opinion*, the *appeal shall be admitted*, and the case brought on to the file of the Court, and heard and determined in due course.—Act XVI, 1853, Sec. ix, cl. 2.

A petition for the *review of* such order shall be written on paper stamped with a Government *stamp* of the value of *two rupees a sheet*.—Act XVI, 1853, Sec. ix, cl. 3.

When any *special appeal* shall be admitted, the same shall be *heard* and determined *by three or more of the Judges* of the Sudder Court, and such hearing and determination shall be upon all the grounds whereon a special appeal will lie under this Act.—Act XVI, 1853, Sec. x, cl. 1.

The Sudder Court may at any time before or at the time of the hearing of any special appeal or any application for a special appeal, allow either party to *amend the grounds of objection* set forth in his petition, or to add further grounds of objection thereto; or to urge and be heard by himself, or his pleader, in support of any objection not included in his petition, *upon* such terms and *conditions* as to postponement of the hearing, and as to the payment of costs or otherwise, as the Court shall think *just, to* prevent the *opposite party* or his pleader from being taken by surprise or otherwise. Without such leave of the Court, neither party shall be allowed to urge or be heard in support of any objection not set forth in his petition. *But* upon hearing the application or determining the appeal, the Sudder Court shall not be confined to the grounds of objection set forth in the petition.—Act XVI, 1853, Sec. x, cl. 2.

NOTE.—The following rules are not repealed by Sec. i, Act XVI, 1853; but the whole of Act III, 1843, was repealed by that enactment. Section ix of the last-mentioned Act reserved such then existing laws relating

to Special Appeals as "were not inconsistent with the provisions of that Act." The rules here following seem to be necessary to the working of Special Appeals. Perhaps their importance did not present itself so as to lead to their being specially reserved.

Petitions of special appeal shall be written upon the *stamped paper* prescribed, with reference to the *value* or amount of the suit, calculated according to the provisions of Regulation X, 1829, or any provisions which may be hereafter enacted for the valuation of property sued for in the Civil Courts. The petition shall be *presented* either by the party in person or by an authorised pleader of the Court. In the latter case, the petition shall be signed by the pleader, who shall *certify* on the back of the petition that he has duly considered the *grounds* stated for admitting a special appeal by Cl. 1 Sec. xxix, of this law; and believes them to be well founded and *sufficient*.—Reg. XXVI, 1814, Sec. ii, cl. 3.

If, on a consideration of the circumstances of the case, the Court shall see reason for admitting a special appeal, the appellant shall be required to furnish the prescribed *security* within a reasonable period to be fixed by the Court. When the required security shall have been duly furnished, the Court will *admit* the special appeal, and proceed to investigate the suit, under the rules prescribed in Act XVI, 1853.—Reg. XXVI, 1814, Sec. ii, cl. 4.

If the Court shall not see sufficient reason for admitting the special appeal, and shall in consequence *reject* the petition, the appellant shall not be entitled to receive back the amount or value of the stamp on which the petition may have been written. The Courts are, however, vested with a discretionary authority in any particular instance of *hardship*, to *refund* any portion not exceeding *three-fourths* of the amount of such *stamp* duty to the party who may have paid the same, or to his legal representative. —Reg. XXVI, 1814, Sec. ii, cl. 5.

The provisions of Regulation XXVIII, 1814, respecting appeals in *formâ pauperis* from decisions passed in original suits, shall be considered applicable to second or special appeals which may be preferred in *formâ pauperis*, and which; may be hereafter deemed admissible under the rules of Act XVI, 1853.—Reg. II, 1825, Sec. v.

APPEALS; *(Summary,) petitions of Zillah Court and Sudder Dewanny Adawlut, what they can receive; Period; Stamp; Notice; Remand, Fine on litigious appeal; Principal Sudder Ameen; Execution; Pauper; Default.*

The *Zillah Courts* are empowered to *receive* any *petitions* respecting suits or matters that may be depending, or have been decided in any *Lower Court* within their respective Jurisdictions; and provided it shall be proved to their satisfaction that the petition was

presented, or that due means were used to effect its being presented to the *Judge*, and that he *refused* or omitted *to receive* it and proceed on it, or in the last-mentioned case, that undue means were used by any of the officers of the Court to prevent the petition being presented, the Court are empowered to issue a precept, under the seal of the Court, commanding the Judge to receive the petition, and to proceed respecting it according to the Regulations.—Reg. II, 1798, Sec. vi.

The *Sudder* Dewanny Adawlut is empowered to *receive any original suit or complaint* which may be cognizable in any Zillah or City Court, and to command the Judge of such Court, by a *precept* under the seal of the Court, and attested by the Register, to receive the suit or complaint, and to proceed to hear and determine it, *provided* proof shall be previously made to their satisfaction that the *Judge refused* or omitted to proceed in it. If the plaintiff shall refuse or *neglect* to proceed in the suit or complaint for the period of *six weeks after* the order of the Sudder Dewanny Adawlut may be received by the Zillah or City Court, and notified to the complainant, the Judge is authorized to *dismiss* it, notwithstanding the order of the Sudder Dewanny Adawlut. In such cases the *Judge within one week* after the dismission of the suit or complaint, is to *certify* to the Sudder Dewanny Adawlut, under his hand and the seal of the Court, that the suit or complaint has been dismissed, and the grounds of the dismission.—Reg. VI, 1793, Sec. iv.

It shall be competent to the Sudder Dewanny Adawlut to receive a *summary appeal* from the orders or decrees of the Courts, in all cases in which the latter may have refused to admit an original suit or appeal regularly cognizable by them; or having admitted such suit or appeal, may have dismissed it on the ground of delay, informality or other default, without an investigation of the merits of the case.—Reg. XXVI. 1814, Sec. iii, cl. 2.

On the same principle, it shall be competent to the Zillah or City Judges to receive a *summary appeal* from the orders or decrees of a *Sudder Ameen*, in cases in which the Sudder Ameen may have dismissed, *on* the ground of some *default*, and without an investigation of the merits of the case, any original suit or appeal regularly referred to them.—Reg. XXVI, 1814, Sec. iii, cl. 4.

It shall be competent to the Zillah and City Judges to receive a *summary appeal* from the orders or decrees of the *Moonsiffs* subordinate to them, in cases in which such Moonsiffs may have refused to admit any suit regularly cognizable by them, or may have dismissed, on the grouud of delay, informality, or other *default*, without an investigation of the merits of the case,

any such suit which they may have admitted, or any suit regularly referred to them.—Act XXII, 1838, Sec. i.

The provisions of Cls. 5 & 6 Sec. iii, Reg. XXVI, 1814, apply to the summary appeals preferred under the authority of this Act.—Act XXII, 1838, Sec. ii.

It shall be competent to the Zillah or City *Judge to receive* a *summary appeal* from the orders of any *Principal Sudder Ameen or Sudder Ameen*, rejecting any original suit cognizable by him, and that all rules applicable to summary appeals from orders dismissing original suits on the ground of *any default* shall be applicable to the summary appeals given by this Act.—Act. IX, 1844, Sec. iv.

In all the preceding cases, the *summary* appeal shall be preferred within the same limited *period* as is prescribed for the admission of *regular* appeals, and subject to the provisions contained in the following Clauses.—Reg. XXVI, 1814, Sec. iii, cl. 5.

Whenever a party may be desirous of preferring a summary appeal in the cases abovementioned, he shall appear, either in person or by a vakeel duly authorized, before the Court, which, under the preceding rules, may be competent to receive such appeal; and shall present a *petition*, written on the *stamped paper*, prescribed by Schedule B, Reg. X, 1829, and accompanied by an attested *copy* of the order or decree passed in the case.—Reg. XXVI, 1814, Sec. iii, cl. 6.

In matters which the *Sudder Dewanny Adawlut* may be empowered by any Regulation to try in the first instance (excepting as to hearing witnesses and receiving evidence), the Court is to proceed *in the same manner*, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, *as are* prescribed to the *Zillah and City Courts*.—Reg. VI, 1793, Sec. vii.

The party presenting such petition shall *not* be liable to the payment of *the stamp duty* substituted for the institution fee, *nor* shall he be required to furnish any *security, except* such as may be eventually necessary, under the Regulations in force, for staying the execution of the decree from which the appeal may be preferred. —Reg. XXVI, 1814, Sec. iii, cl. 7.

It shall *not* be requisite to give any *notice* to the *respondent*, or to require his attendance on such summary appeal being preferred, unless in any particular instance the Court may deem it proper to adopt that measure; nor shall any pleadings or proceedings be holden on such summary appeal, excepting such as may suffice to determine whether the suit was not rejected or dismissed by the lower Court on sufficient grounds, and in conformity with the Regulations.—Reg. XXVI, 1814, Sec. iii, cl. 8.

If upon such summary proceedings it shall appear to the

Court that the suit was *rejected* in the first instance, or, after being admitted, *was dismissed without an investigation of the merits upon insufficient grounds*, or in opposition to the Regulations, it shall be *competent* to the *Sudder Dawanny Adawlut, and to the Zillah or City Judges* respectively, to direct the lower Court or officer, from whose *order* or decree the petition of appeal may have been presented, to *receive* the original suit or appeal, or to *revive* it if it shall have been received and dismissed, and to try and determine such cause on its merits, according to the Regulations.—Reg XXVI, 1814, Sec. III, cl. 9.

If, on the contrary, such summary appeal shall be found to be *groundless and litigious*, the Sudder Dewanny Adawlut and the *Provincial Courts* are respectively authorized and required to *reject* the petition for a summary appeal, and to impose such *fine on the litigious appellant* as may appear to be in each instance proportionable to the condition of the party and to the circumstances of the case; *provided* that such fine shall in *no* case *exceed* the amount of the *stamp* duty which would have been payable by the appellant on the institution of such case as a regular suit or appeal. All orders imposing fines, or rejecting petitions of summary appeal, which may be passed under the preceding rule by the Sudder Dewanny Adawlut, or by the *Provincial Courts*, shall be final and conclusive.—Reg. XXVI, 1814, Sec III, cl 10.

The above provisions, regarding the admission and hearing of summary appeals, shall be held applicable to original suits and appeals tried by *Principal Sudder Ameens*.—Reg. V, 1831, Sec. XIX, cl 1.

Summary decisions Sec. v, *Reg VII*, 1825, as to sales by order of Court, shall be open to a *summary appeal* under the general rules for such appeals. —Reg VII, 1825, Sec v, cl. 2.

No appeal shall lie against the decision passed in accordance with the provisions of Act XXIX, 1841, other, than a summary appeal on the fact *of default*.—Act XXIX, 1841, Sec. III.

APPEALS ; *from orders in execution.*

The summary decisions passed under this Section shall be open to a summary appeal to the Sudder Dewanny Adawlut, under the general rules for such appeals.—Reg VII, 1825, Sec. v, cl. 2.

APPEALS ; TO Her MAJESTY IN COUNCIL ; *value, petition ; period, security, copies of proceedings ; paupers ; admission of appeal, period of defaults ; stamps, Special Commissioner's decrees Vide pp* 20 & 26.

All persons desirous of appealing from a judgment of the Court of Sudder Dewanny Adawlut to the Queen in Council, are required to present their petition of appeal to the Court of Sudder Dewanny Adawlut, either themselves or through one of the authorized

pleaders of that Court duly empowered to present such petition in their behalf, *within six calendar months* from the date on which the judgment appealed against may have been passed: under which provision, and provided also the judgment appealed against shall, exclusive of costs of suit, be to the *value of* 10,000 *Company's rupees*, the Court of Sudder Dewanny Adawlut are to admit the appeal, and proceed upon it as directed in the following Sections of this Regulation, under the several restrictions therein prescribed. The value of the property constituting the subject of the judgment appealed against is to be determined according to the *nature of* such *property*, whether land, money, effects, or otherwise, according to the general rules prescribed in like cases for determining the value of the same property, when constituting the cause of action in the Sudder Dewanny Adawlut, and the several Civil Courts subordinate thereto.—Reg. XVI, 1797, Secs. ii, and iii.

In cases of appeal to Her Majesty in Council, the Court of Sudder Dewanny Adawlut may either order the judgment passed by them to be carried into *execution*, taking sufficient *security* from the party in whose favour the same may be passed, for the due performance of such order or decree as Her Majesty, her heirs, or successors, shall think fit to make on the appeal, or to suspend the execution of their judgment during the appeal, taking the like security, in the latter case, from the party left in possession of the property adjudged against him; but in all cases security is to be given by appellants, to the satisfaction of the Sudder Dewanny Adawlut, for the payment of all such costs as the said Court may think likely to be incurred by the appeal, as well as for the performance of such order or judgment as Her Majesty, her heirs or successors, may think fit to give thereupon.—Reg. XVI, 1797, Sec. iv.

In all cases wherein the Sudder Dewanny Adawlut may admit an appeal to the Queen in Council, they are to cause *copies* to be made of all the proceedings held, and judgments or orders given in the case appealed including the whole of the evidence and documents, omitting all formal documents, (translated into English, if the original documents be in any of the country languages), with a complete *index*, certifying the omitted documents, and are to transmit the same as soon as prepared, under their official seal and the signature of their Register, to the Governor-General in Council, for the purpose of being forwarded by the first secure conveyance to the register of Her Majesty's Privy Council, Whitehall. No other certified copies of the record shall be transmitted to Agents in England by or on behalf of the parties in the suit; and the fees and *expenses* incurred and

paid for the preparation of such transcript shall be stated and certified upon it by the register or officer preparing the same. —Reg. XVI, 1797, Sec. v, and Order in Council, 13th June, 1853, paragraph ii.

The *expense of preparing the copies* of proceedings and documents required by the preceding rule and of translating into the English language such of the aforesaid proceedings as may have been originally drawn out in the country languages, shall be defrayed by the parties prosecuting the appeal, and the Courts of Sudder Dewanny Adawlut are empowered and required to cause the *deposit* by the appellant, within the time allowed for furnishing *security for costs* of appeal, of such a sum as shall be sufficient to cover the expense of making the aforesaid copies.—Act II, 1844, Secs. i and ii, and Order in Council, 13th June, 1853, paragraph ii.

Copies of the proceedings and judgments of the Sudder Dewanny Adawlut, in appeal to the Queen in Council, shall be furnished *without expence to paupers* who may be parties in such appeals, and shall be written on *unstamped* paper of European manufacture.—Reg. XXVIII, 1814, Sec. xviii.

After receiving the security and the deposit required in the preceding Sections and not till then, the Court of Sudder Dewanny Adawlut are to declare the appeal *admitted*, and to give *notice* thereof to the appellant and respondent respectively, that they may take measures, the one to prosecute, the other to defend the cause in appeal before Her Majesty in Privy Council, according to the established mode of proceeding in similar cases.—Reg. XVI, 1797, Sec. iv, and Act II, 1844, Sec. ii.

In case the judgment appealed from shall have been passed in pursuance of any local Regulation or Regulations enacted by the Governor-General in Council, or in case any such Regulation shall have been referred to in the judgments passed by any of the Courts, wherein the cause appealed from may have been tried and decided, *a copy of such Regulation* or Regulations, or an *extract* therefrom, containing all that has reference to the matter at issue, shall be annexed to the several copies of the proceedings prepared in conformity to Sec. v, whether for delivery to the parties or for transmission to Her Majesty in Council.—Reg. XVI, 1797, Sec. vi.

Provided always, that *nothing* in this Regulation is to be understood to *bar the full and unqualified exercise of Her Majesty's pleasure* upon all appeals to her from the decisions of the Sudder Dewanny Adawlut, either *in rejecting* any she may consider inadmissible under the statute respecting such appeals, or *in receiving* any she may judge admissible, notwithstanding the provisions made in this Regulation, which has reference to the local Jurisdiction only, and particularly

to that of the Sudder Dewanny Adawlut, as a necessary rule for their guidance, subject in the whole of its provisions to the ultimate determination of Her Majesty in Council.—Reg. XVI, 1797, Sec. vii.

NOTE.—It is declared by the Acts VIII, & IX, Vict. cap. 30, Sec. ii, that any *appeal* admitted in India after 1st January 1846, shall *be considered to* be abandoned and *withdrawn*, unless some proceedings shall be taken IN ENGLAND in the same by one or more of the parties thereto, *within two years* after registration at the Council Office of the arrival of the transcript.

No stamp duty or institution fee shall be payable in respect of any proceeding in any appeal, or in respect of any paper or copy of any paper *necessary* for any appeal from any Court of the East-India Company to Her Majesty in Council.—Act XI, 1839.

In all *cases* decided by a Special Commissioner or Commissioners under the provisions of *Regulation III*, 1828, which, if decided by the Court of Sudder Dewanny Adawlut, would be *appealable* to Her Majesty the Queen in Council: a similar appeal will lie from the decision of the *Special Commissioner* or Commissioners, under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court; provided, however, that such decisions shall be immediately executed and enforced, notwithstanding the institution of the appeal: provided also, that it shall be competent to any Commissioner to *review* any judgment passed by him, on sufficient cause being shown why a new trial should be granted—the rules in the existing Regulation regarding a review of judgment being held applicable to such cases.—Reg. III, 1828, Sec. iv, cl. 5.

APPEALS; *to Her Majesty in Council; Execution mode of; period; appeal as to.*

Every decree or order in appeal of Her Majesty in Council, or of any Court of Sudder Dewanny Adawlut, or of any Zillah or City Judge, which shall be made after the passing of this Act, and also every such decree or order in appeal which has been made before the passing of this Act, and for the *execution* or enforcement whereof no petition has been presented, shall be *enforced* and executed by the Court which made the first decree or order appealed from, in the manner and *according to the rules* and laws *applicable* to the execution and enforcement of *original decrees or orders* made by such last-mentioned Court.—Act XXV, 1852, Sec. i.

Any person *desirous of enforcing* or obtaining *execution* of any such decree or order made in appeal as aforesaid shall present a *petition* for that purpose to the Court which made the first decree or order appealed from, and the said *petition* shall be accompanied by a *certified copy* of the decree or order made in appeal, and

sought to be enforced or executed.—Act XXV, 1852, Sec. ii.

An *appeal* shall lie from any decree or order made by such last-mentioned Court relating to the enforcement or *execution* of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and Regulations, as an appeal from an order or decree made upon a petition for the enforcement or execution of the decree or order first appealed from would have been.—Act XXV, 1852, Sec. iii.

Nothing herein contained shall be construed so as to *prevent* any Court of Sudder Dewanny Adawlut from enforcing or obtaining *execution of a decree or* order *made or* passed by *Her Majesty in Council*, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.—Act XXV, 1852, Sec. iv.

The provisions of Section viii, Act XXV, 1837, shall extend to proceedings under this Act.—Act XXV, 1852, Sec. v.

ARBITRATION: *when to be recommended by the Court and how to be regulated.*

In suits that may be brought before any of the Courts of Civil Judicature concerning disputed accounts, partnerships, debts, doubtful or contested bargains, or non-performance of contracts, in which the cause of action shall *exceed two hundred rupees*, the Courts are to recommend the parties to submit the decision of the matters in dispute to arbitration. Reg. XVI, 1793, Sec. ii.

In all suits for *money or personal property*, the amount or value of which shall *not exceed* the sum of *two hundred rupees*, the Courts are empowered, with the consent of the parties, to refer the suit to the decision of *one arbitrator*. The parties, or their vakeels, upon agreeing to the reference, shall, on or before the next Court day, mutually choose some one common friend or indifferent person who may be willing to undertake the arbitration. If the parties shall not agree with respect to the person to be appointed arbitrator, or if the person nominated by them shall refuse to accept the arbitration, and the parties, or their vakeels, cannot agree in the appointment of another person willing to undertake the arbitration, the Court, with the consent of the parties, is to appoint as arbitrator in the cause, the proprietor of the estate in which the cause of action shall have arisen, or the farmer, if the estate be held in farm of Government, or the Cauzy of the Pergunnah, or the Tehseeldar, or any other creditable person, provided that the person so to be nominated by the Court be not in any respect interested in the matter in dispute. But, if the parties cannot agree in the nomination of an arbitrator, or if the person whom they may nominate shall refuse to accept the trust, and the parties cannot agree upon-

the appointment of any other person willing to undertake the arbitration, or shall not consent to the appointment of an arbitrator by the Court, the cause is not to be referred to arbitration, but is to be tried by the Court. In the event of the parties, or their Vakeels, agreeing in the nomination of an arbitrator willing to accept the arbitration, or to an arbitrator being appointed by the Court, the person so chosen or appointed shall be the arbitrator in the cause. The parties, however, in suits of the nature of those described in this paragraph are to have the option of choosing two or more arbitrators to decide their cause, in the same manner as the parties in the causes specified in the preceding Section.—Regulation XVI, 1793, Sec. iii.

The Judges of the Courts are enjoined to afford every *encouragement* in their power to *persons of character* and credit *to become arbitrators;* but they are not to employ any coercive means for that purpose, nor to permit any of their public officers or private servants, to be arbitrators in a cause. In all cases, the Courts are directed to *endeavour*, but *without* using any *compulsion*, to prevail upon parties to submit their cause to the arbitration of one person to be mutually agreed upon by them. In every case (with the exception of the cases specified in the preceding Section, which the Courts are empowered to refer to one arbitrator with the consent of the parties,) the parties are to choose the *arbitrators*, who are to decide the matter in dispute *without fee or reward.*—Reg. XVI, 1793, Sec. iv.

Whenever a suit shall be submitted to arbitration, the Court in which it may have been instituted, previous to the arbitrator or arbitrators entering upon the arbitration, is to cause the parties to execute *arbitration-bonds*, binding themselves to abide by the award and agreeing that it be made a decree of the Court. The Court is to fix such *time* as it may think reasonable, upon a consideration of the nature and circumstances of the case, *for the delivery of the award*, and the period so fixed is to be specified in the bonds. If the cause shall be referred to two or more arbitrators, the following provisions are to be made for completing the *award*, in the event of the arbitrators *not delivering* it by the limited time, either from disagreement, or other cause. If the decision of the suit shall be referred to two or more arbitrators, whether an odd or an even number, the parties are to have the option of nominating jointly one person as umpire: or if the number of arbitrators appointed shall be three or more, being an odd number, to agree that the award given by the majority shall be *final*, or to permit the arbitrators to nominate an *umpire*. The name of the umpire, and the time by which he is to make his award, in the event of the arbitrators not delivering it

by the limited period, are to be specified in the bonds, which are to be executed before the arbitrators enter upon the inquiry. In the event of an umpire being appointed, and the arbitrators not agreeing in an award by the limited period, their authority is to cease from such period, and the *umpire* is to give his *award.*—Reg. XVI, 1793, Sec. v.

When a cause shall be referred to arbitration and the bonds specified in the preceding Section shall have been executed, the Court is to transmit to the arbitrator or arbitrators *a copy of the bill of complaint and by a short writing under the seal of the Court, refer to him or them the matters in dispute between the parties.* In the trial of the suit, the arbitrators are to investigate the matters in dispute, by hearing the pleadings of the parties and examining their respective witnesses and documents. The Court is to issue the *same process* to the *parties* and to the *witnesses whom the arbitrator* or arbitrators, or the parties, *may desire* to have examined, to appear before the arbitrator or arbitrators, and to administer such oaths or affirmations to the parties and witnesses, as the Court is authorised to administer in causes tried before it: and persons *not attending* in consequence of such process, or making any *default,* or *refusing* to give their *testimony,* or to *sign* their depositions, or being guilty of any *contempt* to the arbitrator or arbitrators during the investigation of the suit, are to be subject to the like disadvantages, penalties, and punishments, by order made by the arbitrator, or arbitrators, as they would incur for the same offences in suits tried before the Court; provided that the arbitrator or arbitrators shall report the order, with the reason for making it, to the Court, and obtain its consent thereto, which is to be signified by the Judge or Judges signing the order. In cases in which an arbitration may be held at a considerable distance from the Court, the Court may grant *commissions* to the *arbitrators* to administer the *proper oaths or affirmations* to witnesses whom they may be desirous of so examining.—Reg. XVI, 1793, Sec. vi.

In cases where arbitrators or umpires shall not have been able to complete the award by the *limited time,* from want of the necessary evidence or information, or other good and sufficient cause, the Courts are empowered to allow a *further time* for the delivery of the award. In the first-mentioned case, the Courts are to fix a period by which the umpire (if an umpire shall have been appointed) shall deliver his final award, in the event of the arbitrators not completing their award by expiration of such further time.—Reg. XVI, 1793, Sec. vii.

When *a final award* in a cause shall be made, either by the arbitrators or the umpire, it is to be submitted to the

Court under the seal and signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause. The Court is to pass a decree conformably to the award, and the decree is to be carried into execution in the same manner as other decrees of the Court.—Reg. XVI, 1793, Sec. viii.

The *award of* an arbitrator or arbitrators is *not to be set aside, except* it be fully proved to the satisfaction of the Court, by the oaths or affirmations of two credible witnesses, that the arbitrator or arbitrators has or have been guilty of gross *corruption or partiality* in the cause in which the award may be made.—Reg. XVI, 1793, Sec. ix.

Parties in suits depending in the Civil Courts of Judicature respecting the property in land, or limited tenures therein or rights dependent thereon, shall be at liberty to refer their suits to *arbitration*, and shall, by all due means, be *encouraged* by the Courts to resort to that mode of adjusting their differences.—Reg. VI, 1813, Sec. ii, cl. 1.

The preceding *rules* repecting the reference of suits to arbitration, the appointment of arbitrators and umpires, the investigation of suits referred to arbitration, the time and mode of making the award, and the setting aside or confirming the same, are declared *applicable to suits referred* to arbitration *by the Courts* of Judicature under this Regulation.—Reg. VI, 1813, Sec. ii, cl. 2.

Persons between whom disputes may exist respecting the property of land, or limited tenures therein, or rights dependent thereon, whether the same be or be not depending in the Courts of Judicature, *are at liberty, without any application to the Courts, to refer the* same *to* private *arbitration;* and the awards made by the arbitrators and umpires appointed in such case by the parties shall be supported and enforced by the Courts, under the following rules and limitations.—Reg. VI, 1813, Sec. iii, cl. 1.

Whenever a dispute respecting the matters above enumerated shall have been referred to private arbitration, and an award shall have been duly made, if either party shall *refuse to perform the award*, it shall be competent to the other party, within the period of *six months* from the date of the award, to apply *summarily* to the *Dewanny Adawlut;* and upon such application, if the Court, after calling upon the opposite party for his answer, be satisfied that the award was duly made by arbitrators or umpires appointed by the free-will and consent of the parties, and such award shall be liable to no impeachment, which would have warranted the setting it aside, if it had been made under the authority of the Court, shall cause the same to be summarily executed as a decree of Court,

calling upon the *arbitrators* and *umpires*, if necessary, to attend and give their *assistance* in the execution of their said award; provided always, that if such application for the enforcement of a private award shall not be made within the period above prescribed, the Court shall not admit any plea whatever for the delay, but shall reject such application and refer the party preferring it to a Regular suit.—Reg. VI, 1813, Sec. iii, cl. 2,

Whenever *private awards* shall be tendered by the parties in regular suits, the Courts, if such awards shall appear to have been *performed*, and the possession of the contested property to have been held under them, shall allow equal *validity* to the same as if they had been made under the authority of the Courts. But if the awards tendered shall *not* have *been performed* at all, or shall have been performed only in part, the Courts shall *not admit* the same, unless they be established by clear and satisfactory proof, shall be distinct and intelligible, so as to admit of easy execution, and the delay which may have occurred in the performance of them shall also be duly accounted for.—Reg. VI, 1813, Sec. iii, cl. 3.

No decree relating to the matters above enumerated shall be *amended* or *reversed* upon the ground of the same being founded on an award of *arbitration not authorised* by the Regulations at the time the award was made, unless such award be in itself open to just cause of impeachment.—Reg. VI, 1813, Sec. iv.

If a petition of *appeal* shall be preferred against the decision of any Court, founded *on an award* of arbitration, it is to be *dismissed* with costs; *unless* it be fully proved to the satisfaction of the Court, by the oaths or affirmations of two credible witnesses, that the arbitrators have been guilty of gross *corruption* or *partiality*, in the cause in which they have made the award.—Reg. V, 1793, Sec. xxviii; Reg. VI, 1793, Sec. xxii.

NOTE.—Collectors revising settlements are authorized to refer to arbitration any disputes cognizable by them under the provisions of Regulation VII, 1822; and any judicial questions before them, in which the interests of justice may in their opinion require that the case be decided by arbitration, are also referrible under Reg. IX, 1833.

ATTACHMENT; *and Sale of personal property, by Moonsiffs.*

The Moonsiffs may be employed, at the discretion of the Zillah and City Judges, in the attachment and sale of personal property, for the purpose of realizing the amount of fines, or of decrees, regular or summary.—Reg. XXIII, 1814, Sec. lii.

BHAUGULPORE; *Hill people; Magistrate; Manjee; Money-Claims; Trials; Awards; Arbitration; Appeal; Statements, Pergunnah Kheel Pattee.*

The *Magistrate* of Bhaugulpore is authorized to *try* summarily, and adjudge *all claims* for money or personal property arising between the hill people, residing within the limits of the hill divisions, provided the amount or value of the same do not exceed *one hundred rupees*, and provided the cause of action shall *not* have been of more than *one year's standing*.—Reg. I, 1827, Sec. iii, cl. 1.

Under the same limitation of time, the Magistrate is likewise authorized to try and adjudge all claims regarding the *situation of Manjee*, and the right of possession in any hills, and likewise any *disputes* respecting the limits of the same.—Reg. I, 1827, Sec. iii, cl. 2.

The Magistrate is further authorized to decide summarily on all *claims for money and personal property* (not exceeding in amount or value the sum of one hundred rupees) which may arise in the Bhaugulpore district, (subject to the above specified limitation in point of time) between the hill people and the inhabitants of the low lands.—Reg. I, 1827, Sec iii, cl. 3.

In the discharge of the above duties, the Magistrate shall observe the *rules of process* and *forms of proceeding* prescribed and practised in the investigation and decision of cases of assault and the like; all petitions connected with cases cognizable under these rules shall be written on paper bearing ing the usual *stamp* for petitions presented in the Magistrate's Court, and in the summoning and examination of witnesses, as well as in all cases of resistance, contempt, or evasion of process, during the investigation of the cases in question, the provisions of the existing *regulations applicable* to cases arising in the Court of the Magistrates, shall apply and regulate the course of proceeding. Provided, however, that upon *award* being *made* by the Magistrate adjudging any sum to be due, or determining the right of any party in a hill tenure, or other interest or possession, the award shall take effect and be *executed as a decree of* a Civil Court, and the final proceeding of the Magistrate in the case shall similarly determine in what manner and by whom the *costs*, if any, shall be defrayed.—Reg. I, 1827, Sec iii, cl. 4.

It shall be competent to the Magistrate, whenever in a case of doubt, or for any other reason he may so judge fit, to refer a claim brought before him under these rules, to the *arbitration* of any given number of *Hill chiefs* he may deem proper to appoint, not being less than three.—Reg. I, 1827, Sec. iii, cl. 5.

Any party deeming himself *aggrieved by* the award of a *Magistrate* passed under the preceding rules shall be competent to bring the matter by petition, bearing the usual stamp for petitions presented to the Sessions Court, *before the Sessions Judge*, holding the next ensuing Sessions of Jail

delivery for the district. The Judge so holding the Sessions shall, on receipt of such petition, call for the papers and proceedings, and hold such further investigation as he may deem necessary to satisfy himself as to the merits of the award made by the Magistrate. Should he deem the same erroneous, or should the proceedings of the Magistrate be found irregular or improper in any respect, a *report* of the case, with the whole proceedings annexed, shall be submitted to the Nizamut Adawlut, who shall be competent to reverse, alter, or amend the award in any manner, that may be deemed proper, and to issue any orders upon the subject that may appear expedient.—Reg. I, 1827, Sec. iii, cl. 6.

It shall be the duty of the Magistrate to submit *monthly statements to the Sudder* Dewanny Adawlut of the number of claims instituted and disposed of by him under these rules.—Reg. I, 1827, Sec. iii, cl. 7.

The above provisions shall *not* be held *applicable to the Pergunnah* of *Bheel Putta*, and the inhabitants of that Pergunnah shall be considered subject to the rules contained in the general code, both in matters of Civil and Criminal Jurisdiction.—Reg. I, 1827, Sec. iv.

CALCUTTA; *definition of, as to Zillah of* 24-*Pergunnahs.*

The Dewanny Adawlut of the Zillah of the Twenty-four Pergunnahs is *not to receive* or entertain *any suit*, under any pretence whatever, *relating to* any land, house, tenement, or hereditament, nor any dispute regarding the boundaries of lands, houses, tenements, or hereditaments, situated within the town of Calcutta; (which, for the purpose of this rule, is declared to be bounded by a line drawn by the bridge and nullah of the Baug-bazar, or Cow-cross, the Mahratta intrenchment, and the road adjoining to it, continued to the westward of the Colligaut-road the Govindpore nullah, and the river). The Court is commanded not to intermeddle with, or take cognizance of the suits above-mentioned, which are to be considered entirely *exempt* from its jurisdiction. But the above prohibitions are *not to be construed* to extend *to preclude* the Court of Dewanny Adawlut of the zillah of the Twenty-four Purgunnahs entertaining any suit concerning marriage or caste, in which no money or other valuable thing may be demanded or decreed, although the cause of action shall have arisen, or the defendant may reside, or shall have resided at the time the suit commenced within the limits of the town of Calcutta. —Reg. III, 1793, Sec. xvii.

CALCUTTA; *Small Cause Court; Jurisdiction; Processes; Penalties; Securities; Imprisonment; Technical Defects; Limitation.*

NOTE.—The Act IX, 1850, establishing the Court of Small Causes at Calcutta, is limited in its operation, to Calcutta, and

subjects it to the general authority of the Supreme Court of Judicature. The entire Act is not given in this collection, on the principle which has excluded other enactments which only relate to the Jurisdiction of Her Majesty's Courts; but there are a few Sections by which the Judicial officers of the East India Company's Courts are called upon to act, and those Sections are here given.

The Court of Requests for the recovery of small debts in the Town of Calcutta shall be holden according to the provisions of Act IX, 1850, from and *after such day* as shall be declared within the said Town by *proclamation*, to be made and published in due form of law by the Governor in Council. —Act IX, 1850, Sec. i.

The Court shall *not* have *Jurisdiction* in any matter concerning the *Revenue* or concerning *any act* ordered or done by the Governor or Governor-General, or any Member of the Council of India, in his public capacity, or done by any person by order of the Governor-General or Governor in Council, or concerning any Act *ordered or done by* any Judge or *Judicial Officer* in the execution of his office, or by any person in pursuance of any judgment or order of any Court, or any such Judge or Judicial Officer, or any suit for *libel or slander*.—Act IX, 1850, Sec. xxv.

Any *summons or other process* of any Court, service of which is needed *out of the district* of the Court, may be exhibited in any Court of law, or before any Magistrate, and shall be thereupon endorsed by the Magistrate or Judge of such Court, and when so endorsed may be served in like manner as any order or process from such Court or Magistrate; and such service shall be as valid, as if the same had been made by the bailiff of the Court out of which such summons or other process shall have issued within the Jurisdiction of the Court for which he acts.—Act IX, 1850, Sec. xxix.

Service of any summons or other process of the Court, which shall require to be served out of the district of the Court, *may be proved by affidavit*, or solemn affirmation, purporting to be sworn or made before any Judge or Magistrate; and, in every case of the unavoidable *absence of the bailiff* by whom any summons or other process of the Court has been served, and *service* of such summons or other process may be *proved*, if the Judges think fit, in the same manner as a summons served out of the district of the Court.—Act IX, 1850, Sec. xxx.

Whenever any *defendant*, against whom judgment shall have been given in the Court of Small Causes, shall go, *before execution* thereof, *out of the Jurisdiction* of the Court, the *Judge of any Zillah or Town* where he shall be found, upon receiving from the plaintiff, either in person or by

Vakeel, an application in writing setting forth these facts, with a duly authenticated copy of the Judgment of the Court, *shall execute the said Judgment in the manner* prescribed by law, for execution *of his own decrees; unless* the defendant shall allege any reasonable cause why the Judgment should not be executed, and shall give security, to such amount as the Judge of such Zillah or Town shall deem reasonable, that he will, within such time as shall be allowed him for that purpose, either *satisfy* the Judgment or produce a duly authenticated copy of an order of the Judges of the Court of Small Causes, *discharging* their former Judgment.—Act IX, 1850, Sec. lxxviii.

All *penalties, fines, and forfeitures* by this Act inflicted or authorized to be imposed, (the manner of recovering and applying whereof is not otherwise particularly directed), upon proof before any Justice of the Peace or Magistrate having Jurisdiction, where the offender shall reside or be, or the offence shall be committed, either by the confession of the party offending, or by the oath or affirmation of any credible witness, shall be levied, with the costs attending the summons and conviction, *by distress and sale of the goods and chattels* of the party offending, by *warrant* under the hand of *any such Justice or Magistrate*, and the *overplus*, (if any,) after such penalties, fines, and forfeitures, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels.—Act IX, 1850, Sec. ciii.

If any such penalties, fines, and forfeitures respectively, shall *not be paid forthwith upon conviction*, it shall be lawful for such Justice or Magistrate to order the offender so convicted to be *detained in safe custody*, until return can conveniently be made to such warrant of distress, unless such offender shall give sufficient *security* to the satisfaction of such Justice or Magistrate for his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than eight days from the time of taking any such security, which security the Justice or Magistrate shall be empowered to take by way of recognizance or otherwise, as to him shall seem fit.—Act IX, 1850, Sec. civ.

If upon return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of the Justice or Magistrate, either by confession of the offender or otherwise, that he hath *not* within the Jurisdiction of such Justice or Magistrate, *sufficient goods and chattels* whereon to levy all such penalties, forfeitures, costs and charges, the Justice or Magistrate may, at his discretion, without issuing any warrant of distress, commit the offender to the *Common*

Gaol or House of Correction; for any time *not exceeding three calendar months,* unless such penalties, forfeitures and fines, and all reasonable charges attending the recovery thereof, shall be sooner paid and satisfied.—Act IX, 1850, Sec cv.

In all cases in which by this Act any penalty or forfeiture is made recoverable before a Justice or Magistrate, he may summon before him the party complained against, and on such summons may hear and determine the matter of such complaint; and, on proof of the offence, may convict the offender; and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same, although no information in writing shall have been exhibited before him; and *all such proceedings by summons, without information in writing, shall be as valid* and effectual to all intents and purposes, as if an information in writing had been exhibited.—Act IX, 1850, Sec. cvii.

In all cases where any conviction shall be had for any offence committed against this Act, the *form of conviction* may be in the words, or to the effect following: (that is to say,) "Be it remembered that on this day of in the year , A. B. is convicted before , a Magistrate for the (or before a Judge appointed under Act IX, 1850), of having (state the offence); and I (or we) the said do adjudge the said to forfeit and pay for the same the sum of [or to be committed to for the space of]. Given under hand ( ) and seal ( ) the day and year aforesaid."—Act IX, 1850, Sec. cviii.

No order, verdict, or judgment, or other proceeding, made concerning any of the matters aforesaid, shall be *quashed* or vacated *for want of form.*—Act IX, 1850, Sec. cix.

Where *any distress* shall be made for any sum of money to be levied by virtue of this Act, the distress itself *shall not be deemed unlawful,* nor the party making the same be deemed a trespasser, on account of *any defect or want of form,* in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning, on account of any irregularity which shall afterwards be committed by the party so distraining; but the person aggrieved by such irregularity may *recover* full satisfaction for the *special damage* in an action upon the case.—Act IX, 1850, Sec. cx.

All *actions and prosecutions to be commenced* against any person for anything done in pursuance of this Act, shall be commenced *within three calendar* months after the fact committed, and not afterwards; and *notice in writing* of such action, and of the cause thereof, shall be given to the defendant, *one calendar month* at least, before the commencement

of the action; and no plaintiff shall recover in any such action if *tender* of sufficient amends shall have been made before such action is brought; or, if after action brought, a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the defendant. —Act. IX, 1850, Sec. cxi.

COLLECTORS; *Reference to be made to; in what cases.*

In causes concerning *Rent or Revenue, or other matters* heretofore cognizable in the Courts of Mal Adawlut, *between* proprietors of land, or farmers of land, holding their farms immediately of Government, and their respective dependent Talookdars, under-farmers, or ryots; or *between* dependent Talookdars, and their under-farmers, or ryots; or *between* under-farmers, farming lands of proprietors of land, or of farmers of land who farm their lands immediately of Government, or of dependent Talookdars, and their dependent Talookdars, under-farmers, or ryots; or *between other persons concerned in* the collection or payment of *land rents or revenues*, either as *principals or sureties;* the Judge is empowered to refer to the *Collector* for his *report*, any accounts, the adjustment of which may be necessary, towards the decision of the suit. The reference is to be made to the Collector by a *precept* under the signature of the Judge and the seal of the Court, in which shall be *specified* the *account referred*, and the papers which the Judge may think it necessary to send in elucidation of them, and the *time by which* the report is to be made. The Judge may likewise command the parties or their Vakeels, and any witnesses they may have to produce, to appear before the Collector, that he may examine them regarding the accounts; and also empower the Collector to administer the customary *oaths* or affirmations to the witnesses, or to examine the parties on oath or affirmation, if they shall agree to be so examined. The Collector shall submit his report on the accounts to the Court, by the prescribed time, attested by his official seal and signature, or assign his reason for not having been able to complete it by the period directed. The Judge, upon the receipt of the Collector's report, shall either confirm, set aside, or alter his adjustment of the accounts, or pass such decision respecting them, as may appear to him proper. But the rules in this Section are *not to extend* to empower the Judge, to refer to the Collector any accounts relating to suits in which he or any of his public officers, or private servants, or Government may be a party.—Reg. VIII, 1794, Sec. xiii.

CORRESPONDENCE; *Civil Courts.*

The Civil Courts are *prohibited* corresponding, *by letter, with parties*, in suits or process or matters depending before them or coming within their cognizance. If a party in a suit, or any person amenable

to the Jurisdiction of the Court shall have any matter to *represent* to the Court, he is either to appear in the Court *in person* and represent the matter *in writing;* or to make the representation in writing through an authorised *Vakeel.* The Courts are to pass whatever order, upon the representation, may appear to them proper; consistently with the Regulations, and to cause a *copy of the order* to be delivered to the person making the representation, or to his vakeel, under the seal of the Court.—Reg. III, 1793, Sec. xix; Reg V, 1793, Sec. ix; Reg. VI, 1793, Sec. vi.

COSTS; *Security for; in appeal.*

It shall *not* be *necessary* in any Court of Appeal of the East India Company to take any security for costs, but it shall be in the *discretion* of every such Court of Appeal to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to answer; any law or regulation to the contrary notwithstanding.—Act III,1845.

CUTTACK; *Special Laws; Sudder Dewanny Adawlut; Mahratta Mehauls; Hill Zemindars; Superintendent's Powers.*

[*The first part of the Section contains the general limitation of twelve years.*] Provided, however, that it shall not be competent to the Zillah Courts, under the powers vested in them by this clause, to hear, try, or determine the merits of any civil suit whatever, if the *cause of action* shall have arisen *previous* to the 14*th* day of *October*, 1803.—Reg. XIV, 1805, Sec. viii.

The *jurisdiction* of the Court of Sudder Dewanny Adawlut at Calcutta, is extended to the zillah of Cuttack.—Reg. XIV, 1805, Sec. x.

The laws and Regulations which now are, or which may be hereafter established in the provinces of Bengal and Behar and in that part of Orissa heretofore subject to the British Government, for the guidance of the Zillah Judges, of the Judges of the Sudder Dewanny Adawlut, for the administration of Justice in Civil Cases, including the Regulations for the manufacture of Salt, and generally regarding all cases and matters subject to the cognizance of the Courts of Civil Judicature in the said provinces, which are not already extended to the *Zillah of Cuttack*, and which are not repugnant to, or inconsistent with, any of the provisions above stated, or with any of the provisions contained in Regulations XII and XIII, 1805, are hereby *declared to be in force in that Zillah, and in* the Pergunnahs of *Puttaspore, Kumnardichour, and Bograe; provided*, however, that *nothing* herein contained shall be construed, for the present, to be *applicable to* the estates of certain *hill or Jungle Rajahs* or Zemindars, of whom a *list* is inserted in Section xxxvi, Regulation XII, 1805; and provided likewise, that in cases in which the Bengal language and cha-

racter are directed to be used in the province of Bengal, the *Ooriya language and character* shall be used in the Zillah of Cuttack and in the above-mentioned Pergunnahs.—Reg. XIV, 1805, Sec. xi.

Whereas certain *Jungle or Hill Zemindaries* in the Zillah of Cuttack, enumerated in Section xxxvi of Regulation XII, 1805, of the Bengal Code, *and* the territory of *Mohurbunge*, in the same Zillah, were temporarily exempted by the said Regulation, from the Regulations relating to the settlement and collection of the public revenue, and by Regulation XIII, 1805, of the Bengal Code, were temporarily exempted from the laws and Regulations for the maintenance of the Police, and for the administration of Justice in Criminal cases, and whereas doubts have been entertained how disputes as to the boundaries of the said Zemindaries are to be determined, it is enacted as follows:

Every case in which the *boundaries between* any of the said Zemindaries, or the Killahs of Boad and Atmullick, and an estate subject to the Regulations of the Bengal Code, shall be in dispute, shall be heard, *tried*, and determined in the first instance *by* the *Superintendent* of the Tributary Mehauls in Zillah Cuttack, according to such instructions as he shall from time to time receive from the Governor of Bengal; and his award, when confirmed by the Governor of Bengal, shall be final and conclusive, and shall be carried into execution by the Superintendent of Tributary Mehauls by giving possession of the land in dispute to the parties entitled under his award.—Act XX, 1850.

DECREE; *Copies of appeal; period of calculation.*

The copies of decrees passed by the Civil Courts of Justice not being always prepared in time to be delivered or tendered in open Court to the parties or their vakeels, *within ten days* after passing the decree, as directed in Section xxvi, Reg. IV, of 1793, and such delivery or tender of the decrees of the Zillah Courts being sometimes delayed, from unavoidable causes, till nearly, or even until after the expiration of the period limited for appeals, whereby the parties who may not be present when judgments are passed against them in the Civil Courts, are precluded from having the proper means of determining whether to appeal from such Judgments or otherwise; it is provided, that the period of *three months*, which is limited by the existing Regulations for appeals from the decisions of the Zillah and City Courts to the Court of Sudder Dewanny Adawlut, as well as the period of *one month* limited for appeals from the decisions of the Principal Sudder Ameens, Sudder Ameens, and Moonsiffs, to the Judges of the Zillah and City Courts, and the period of *six months* limited for receiving appeals from the judgments of the Courts of Sudder De-

wanny Adawlut to her Majesty in Council, shall be calculated, respectively, *from* the *date* on which a *copy* of the decree appealed from, may have been delivered, or *tendered* in open Court, *to* the *appellant or* his *Vakeel*, as directed by the Regulations above mentioned; or in the event of neither the party nor his vakeel being present to receive a copy of the decree when ready to be delivered to him, the calculation shall be from the *date* on which the cause of the *non-delivery* of the decree may be *noted upon the copy* prepared for delivery, under the official signature of the Judge, Principal Sudder Ameen, Sudder Ameen, and Moonsiff, as provided for by the Regulations in such cases. The rule prescribed to the Judges of the Zillah and City Courts, for endorsing on the copies of decrees delivered or tendered by them, as well as inserting in their records, the date of delivering or tendering such copies, is also to be carefully observed by the Principal Sudder Ameens, Sudder Ameens, and Moonsiffs, that the exact period of such deliveries or tenders may at all times be ascertainable; and the Judges are to communicate this rule to the Principal Sudder Ameens, Sudder Ameens, and Moonsiffs within their respective Jurisdictions, for their information and guidance.—Reg. II, 1805, Sec. viii.

NOTE.—The rules respecting tender of copies of decrees, and the calculation of the period of appeal from the date of such tender, Vide "*(Infrà")* though not repealed, appears to be superseded by the provisions of Sec. viii, Reg. XXVI, 1814, and by the latter enactments, which always refer to *Clause* 10 *of that Section for the rule* of *limitation* of the right *of appeal.* Those rules will be found under the head "Appeals."

DECREE; *Copies of; when to be prepared and tendered.*

The Judge, either at the time of making the decree or on a subsequent day (of which the Court is to give notice to the parties or their Vakeels) *within ten days* after passing the decree, is to deliver or tender in open Court to each party, or their vakeels, a true copy of the decree, authenticated as above directed, with an endorsement made upon it, of the date on which the copies may be delivered; and *an entry of the delivery or tender*, with the date on which it may be made, is to be inserted in the *margin* of the record opposite to the decree. If either of the parties, or their vakeels, shall *not* be *present* at the time the decree may be passed, and the prescribed copy of it may be produced in the Court to be delivered, or shall not attend on the subsequent day which may be fixed for the delivery of the copies, after previous notice of the day shall have been given to them, or shall refuse to take the copy of the decree when tendered as above directed, the *copy* is to be *deposited* amongst the records of

the Court, and the *cause* of the *non-delivery* of it to the party is to be noted upon it in writing, and in the margin of the record opposite to the decree.—Reg. IV, 1793, Sec. xxvi.

EVIDENCE; *Act* XIX *of* 1853; *appeals from, orders under.*

All orders as to fines, and the levying thereof, or as to imprisonment under this Act, shall be subject to a similar appeal within *one month* from the date of the order.—Act XIX, 1853, Sec. xxix.

EVIDENCE; *day to be appointed for.*

After the parties in a suit in which, according to the practice of the Court, a day is fixed for the hearing, shall have filed their exhibits and lists of witnesses, the Court shall by an order in writing, appoint a day, *not less than fifteen days* after the date thereof, for the examination of witnesses and the hearing of the suit.—Act XIX, 1853, Sec. vi.

EVIDENCE; *Documents; reference to; and filing of.*

If any party to any such suit as aforesaid, shall, in any pleading or statement, refer to any document in his possession or power, as a material proof or document in support of his claim or defence, he shall file such document, *with the pleading* or statement, unless the Court shall, for good and sufficient cause, extend the time for filing the same; and any adverse party shall be entitled, by himself, or his vakeel, to inspect and take a copy of the document.—Act XIX, 1853, Sec. xi.

EVIDENCE; *Exhibits; mark to identify; rejection of.*

Every exhibit is to be marked with some letter or number to identify it, and the letter or number is to be referred to in the deposition proving it. All exhibits *proved* by witnesses not present in Court are, in the same manner, to be marked and referred to in the depositions proving them, and are to be *endorsed* and *minuted as* having been *read* at the time they may have been read in the Court.—Reg. IV, 1793, Sec. vi.

If any exhibit or written evidence is offered to a Zillah or City Court in a cause depending before it, and the Judge of the Court shall think it just and proper to reject it, he is to endorse upon it the word "*rejected,*" together with the names of the parties in the cause, and the name of the party who produced the document, the date on which it may be rejected, and his reasons for not admitting it, (which may be written either upon the document rejected or on a paper to be annexed to it), and to subscribe his name to the endorsement, and return the document, with his reason so written, to the person who produced it.—Reg. IV, 1793, Sec. vi.

EVIDENCE; *Expense of Witnesses and Summons, to be paid by Plaintiff, beforehand.*

The Plaintiff is to pay the charges of summoning the Defendant and his own witnesses, and of all process attended with expense which

may be issued in his behalf, previous to the decision of the suit.—Reg. IV, 1793, Sec. xviii.

EVIDENCE; *List of witnesses; whom to include.*

The list of witnesses required to be furnished in any suit shall include the names of *all* the witnesses, *whether parties* to the suit *or not*, whom the party filing the list may intend to call as witnesses, or whom he may require to be summoned to give evidence or produce any document; also a *list of* the *documents* which he may require to be produced.—Act XIX, 1853, Sec. vii.

EVIDENCE; *Witnesses; Summons; by one or another party.*

If any party to a suit shall require the attendance of any other party thereto as a witness, to be *enforced*, he shall by himself or his pleader, make a *special application* to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application; otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the hearing, the application shall be made *before* such day shall be fixed.—Act XIX, 1853, Sec. viii.

EVIDENCE; *Witnesses; any party may be.*

In *any* regular or summary *suit*, appeal, or proceeding in any of the Civil Courts of the East India Company, and also in any summary suit, *or other proceeding* of a Civil nature before any Court, Officer, or other person having by law or by consent of parties, authority to examine witnesses, any party to such suit, appeal or proceeding, shall be *competent* and entitled to give evidence as a witness either on his own behalf or on behalf of any other party to the suit, appeal, or proceeding in the same manner as if he were not a party to the same: Provided that no party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in *open Court*, in such manner as the Court may direct, having regard to the *usages* and customs of the country, unless such examination shall be taken under, and subject to the rules prescribed by Secs. xxxii, or xxxviii.— Act XIX, 1853, Sec. ii.

EVIDENCE; *Witnesses; Party to show cause why he should not attend; Penalty for false; if no cause shown, Summons to compel.* (*Vide p.* 60.)

The Court, upon the application of the pleader of any party to a suit, whose attendance as witness is required, or without such application, if the Court think fit so to do, may, before making such order, cause *notice* to be given to the party or his pleader fixing a day for such party to show cause why he should not attend and give evidence, and may also, from time to time, if necessary, for good and sufficient

cause, enlarge the time for such purpose.—Act XIX, 1853, Sec. ix.

In support of the cause shown, the Courts shall receive a *declaration in writing* of the party, if signed by him, and delivered into the Court by himself or his pleader. Act XIX, 1853, Sec. x, cl 1.

If the party making such declaration, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly —Act XIX, 1853, Sec. x, cl. 2.

If *no* sufficient *cause* be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for *compelling* the party to attend and give evidence.—Act XIX, 1853, Sec. xi.

EVIDENCE; *Witnesses being interested does not disqualify; husband and wife.*

No person shall, by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in any such suit.—Act XIX, 1853, Sec. iii.

A husband or wife shall be competent to give evidence for or against the other; *provided* that the examination shall take place in *open Court*, in such manner as the Court may direct, having regard to the usages and customs of the country, or that it be taken and read, and subject to the rules prescribed in Sections xxxii, and xxxviii; *provided* also that any communication made by husband or wife to the other during their marriage, shall be deemed a *privileged* communication, and shall *not* be *disclosed* without the consent of the person making the same, *unless* such communication shall relate to a matter in dispute, in a suit pending between such husband and wife.—Act XIX, 1853, Sec. iv.

EVIDENCE; *obligation of party to give or produce; husband and wife.*

Any party to a suit may be compelled to give evidence as a witness therein, and also to produce any document in his possession or power, in the same manner, by the same process, and subject to the same rules, as if he were not a party to the suit, except as far as is otherwise provided by this Act: *Provided* that no Court need to compel the attendance of any party to such suit, for the purpose of giving evidence therein, if such *party* shall *satisfy the Court* that he has *no personal knowledge* of any material subject of inquiry in the suit, and that he cannot give any material evidence therein. Nothing in this Section shall exempt any party to a suit from being summoned to produce a document.—Act XIX, 1853, Sec. v.

EVIDENCE; *Witnesses being parties; perjury.*

Any party to a suit, appeal

or proceeding who may be examined as a witness therein, shall, except as otherwise provided by this Act, be *examined* according to the *rules* for the time being in force as to the examination of witnesses, not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.—Act XIX, 1853, Sec xxxvii.

EVIDENCE; *Witnesses; Summons what to contain.*

Every summons for the attendance of a witness to give evidence, or to produce a document shall require the intended witness to attend at a *time* and *place* to be named in the summons, and shall also state whether the attendance of the witness is required for the *purpose* of giving evidence, o producing a document, or for both purposes. *If* a witness, whether a party to the suit or not, is required to attend, and to produce before the Court any *document* alleged by the party summoning him to be in his possession or power, a *direction* to attend the Court, with such document shall be inserted in the summons, and the *document* which the witness may be so called upon to produce, shall be *described* in the summons with convenient certainty.—Act XIX, 1853, Sec. xiii.

EVIDENCE; *Witnesses; summons; how to be served and obeyed.*

Every such summons shall, if possible, be served *personally* upon the person thereby required to attend, by *showing* the *original* to such person, and at the same time delivering or tendering to him a *copy* thereof.—Act XIX, 1853, Sec. xiv.

Such *service* must be made a sufficient *time before* the time specified therein for his attendance, to allow the witness a reasonable time for preparation and for travelling to the place at which his attendance is required.—Act XIX, 1853, Sec. xv.

Any person who shall be summoned to appear and give evidence shall be bound to attend at the time and place named for that purpose.—Act XIX, 1850, Sec. xvii.

EVIDENCE; *Witnesses; production of documents.*

Any person who shall be summoned to appear and give evidence, shall be *bound to attend* at the time and place named for that purpose.—Act. XIX, 1853. Sec. xvii.

Any person attending to produce a document may be called upon to produce the same *without* being *sworn* or examined as a witness.—Act XIX, 1853, Sec. xviii.

Any *person*, whether a party to the *suit* or not, may be summoned to produce a *document without* being *summoned* to give *evidence*, and any person summoned merely to produce a document shall be deemed to have *complied* with the summons *if* he *cause* such document *to be produced*, instead of attending personally to produce the same.—Act XIX, 1853, Sec. xvi.

A witness not a party to the suit or proceeding to which he is summoned, shall not be bound to produce *his own title deeds*, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.—Act XIX, 1853, Sec. xix.

A witness, whether a party or not, shall not be bound to produce any document relating to *affairs of State*, the production of which would be contrary to good policy, *nor* any document *held* by him *for* any *other person* who would *not* be *bound* to produce it if in his own possession.—Act XIX, 1853, Sec. xx.

A witness being a party to the suit shall *not* be *bound* to produce any document in his possession or power which is *not relevant* or *material* to the case of the party requiring its production, nor any writing or correspondence which may have passed between him and any *legal professional* adviser. *If* any party, however, *offer* himself as a witness, he shall be *bound* to produce any such writing or correspondence, in his custody, possession, or power, if *relevant* or material to the case of the party requiring its production.—Act XIX, 1853, Sec. xxi.

Every witness summoned to produce a *document* shall, if the same be in his custody, possession, or power, be *bound to produce* it, or cause it to be produced to the Court, *although* there be a *valid objection to the right* of the party calling for it to compel its production, or to the reading, or putting it in as evidence, or to the disclosure of the contents thereof; the *validity of* any such *objection* made by the person producing the document shall be *determined by the Court*; and for the better determination thereof, it shall be lawful for the Court to receive any admissible *evidence* which the person producing the document may give respecting it, and it shall also be lawful for the Court to *inspect* the document, and if necessary to call to its assistance any person whom it may appoint to *interpret* the same. Such person, however, shall be previously *sworn* truly to interpret the same to the Court alone, and *not to disclose* the contents thereof, except to the Court, unless the Court shall order the document to be given in evidence. If the Court shall be of opinion that such document shall not be produced, *the Court shall not disclose* the contents thereof to the parties, or take any note, or make any mention of the contents or effect thereof, in its judgment or proceedings, but shall *return* the document at once to the party producing the same, having previously *marked* the same for the purpose of *identification*, and shall record in its proceedings that a document, identifying it by the mark put upon it, was called for by the person, naming him who shall call for its production; that the

person having the possession of the document, naming him, objected to its production, and the reasons, if any, for such objections, together with *the reasons* of the Court for refusing to compel its production. If the Court shall refuse to enforce the production of a document, or to receive the same in evidence, the Court of *Appeal may*, upon a regular appeal, *compel* the production of such document; and if such Court shall think that the production of the same ought to have been enforced, or that it ought to have been received in evidence, may themselves enforce its production, and *receive* it in evidence, and decide the case upon such document, coupled with the other evidence given in the suit.—Act XIX, 1853, Sec. xxii.

EVIDENCE; *Witnesses to produce documents; expenses how to be paid.*

The Court on the requisition of any party to a suit, or his pleader, may cause a summons to be issued to every person who shall be required to produce any material document. *Previously* to the issuing of any summons for the attendance of any person to give evidence or produce a document, the party requiring the same shall *pay* into Court such sum as shall appear to the Court to be *reasonable*, to defray the *travelling* and *other expenses* of such person, in passing to and from the Court in which he may be required to attend and give evidence, and for *one day's attendance* thereat. In fixing the sum to be paid into Court, regard shall be had to the rules, if any, established by the Court or Board, if any, to which such Court shall be subordinate. The *sum* so paid into Court shall be *tendered* to the witness *at the time of serving* the summons if it can be served personally. In addition to the sum so paid into Court, the Court before whom any person who may attend in pursuance of a summons, or proclamation to give evidence or produce any document, may order such *further sum* to be paid to the person so attending by the person causing the summons or proclamation to be issued, as may appear to be necessary to defray his *travelling and other expenses*, and also the expenses of his *detention* under the summons, or proclamation; and in case of *default* in payment, may order such sum to be *levied* by attachment and *sale* of the goods of the person ordered to pay the same, and the witness shall *not be bound* to give evidence or produce any document *until* such *sum* shall be *paid*.—Act XIX, 1853, Sec. xii.

EVIDENCE; *Witnesses; Parties; absent; Distance; Act* VII *of* 1841. *Sickness, &c.; Appeal as to.*

The words "witness" and "witnesses," in Secs. i to viii, Act VII, of 1841, shall respectively include any party or parties to a suit, and the said Act (Secs. i to viii, of

Act VII, of 1841,) shall be read as if the words "or party" "or parties" had been used in such Act (Secs. i to viii, of Act VII, of 1841,) in conjunction with the words "witness" or "witnesses" respectively: Provided that the deposition of a party taken under the provisions of this Section, at the instance of any opposite party, may be read in evidence by, or on behalf of, such last-mentioned party, without the proof required by Sec. v, Act VII, of 1841. Provided also that no deposition of any party taken under the provisions of this Section shall be read or used in evidence, unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion, or any reference to the suit, at so great a distance from the Court, that in the judgment of the Court it would be *unreasonable* to require his personal attendance in Court for the purpose of giving such evidence; in which last-mentioned case it shall be *discretionary* with the Court, having regard to the nature of the case, and of the evidence given, either to allow or to refuse such deposition to be read.—Act XIX, 1853, Sec. xxxviii.

No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.—Act XIX, 1853, Sec. xxxix.

EVIDENCE; *Witnesses absent; Commission; Penalty; Oath; Sickness, &c.; Her Majesty's Courts. Foreign territory.*

It shall be lawful for any Court, and the several Judges thereof, *in every civil proceeding*, depending in such Court, upon the application of any of the parties to such proceeding, to order the examination, upon *interrogatories* or otherwise, before any officer of any such Court, or other person or persons named in such order, of any witnesses within the Jurisdiction of the Court, where the proceeding shall be depending, or to order a *commission* to issue to any subordinate Court for the examination of such witnesses upon interrogatories, or otherwise, or to order a commission to issue to any other Court for the examination of witnesses at any place or places *out of* such *Jurisdiction*, upon interrogatories or otherwise, and by the same, or any subsequent order or orders, to give all such directions for taking such examinations, as well *within* the *Jurisdiction* of the Court wherein the proceeding shall be depending, as *without*, as may appear reasonable and just: Provided always, that any Court to whom any such commission shall be directed, shall take the examination in *open Court*, in all cases where witnesses are able to attend in Court, and are not exempted from attendance by law, absolutely, or at the discretion of

the Court. Provided also, that such commissions as aforesaid for the examination of witnesses out of such Jurisdiction, may be directed *otherwise than to some Court, under special circumstances* which may appear to the Court issuing the commission to render such special direction expedient. Provided also, that all commissions issued and orders made by any Court of the East India Company, and which are required to be executed within the local limits of any of Her Majesty's *Supreme Courts*, shall be directed in manner hereinafter mentioned.—Act VII, 1841, Sec. ii.

When any order shall be made for the examination of witnesses within the Jurisdiction of the Court, wherein any such proceeding as aforesaid shall be depending by the authority of this Act, it shall be lawful for the Court, or any Judge thereof, in and by the first order to be made in the matter, or any subsequent order, to command the attendance of any such person to be named in such order, and to direct the attendance of any such person to be at *his own place of residence, or elsewhere*, if necessary or convenient so to do, and to *produce* all necessary *documents* and papers. And the *wilful disobedience* to any such order shall be deemed a *contempt* of Court, and punishable as in other cases of refusing or neglecting to give testimony: Provided always, that every person whose attendance shall be required under this Act, shall be entitled to the like *payment* for expenses and loss of time as upon attendance in Court in cases where such expenses are now allowed.—Act VII, 1841, Sec. iii.

It shall be lawful for every Court or person authorized to take the examination of witnesses by any order or commission issued in pursuance of this Act, and they are hereby authorized and required to take all such examinations, *upon oath or affirmation* where an affirmation is admissible or required upon a trial, and, if upon such *oath or affirmation* any person making the same shall wilfully and corruptly give any *false evidence*, every person so offending shall be deemed and taken to be guilty of *perjury*, and every person causing or procuring another person to commit the offence of *perjury* hereby defined, shall be guilty of *subornation of perjury*.—Act VII, 1841, Sec. iv.

Before any order or commission for the examination of any witness under this Act, shall be issued, the Court or Judge issuing the same shall be satisfied that there is *good reason* for believing that the witness will be *unable to attend* at the usual time for examination, by reason of *absence* from the Jurisdiction, *sickness*, or *other cause allowed by law*. And before granting any such commission, the Court granting the same shall make particular *inquiry* as to the present resid-

ence of the witness whose deposition is to be taken under such commission, and as to the Court of the same degree as the Court granting such commission, or of inferior degree to such Court, which may be *nearest to the place of residence* of the witness, and the commission shall ordinarily be *directed to such Court* of equal or inferior degree as may *most conveniently execute* the same: Provided, however, that if there be doubt as to which is the most convenient Court of equal or inferior Jurisdiction, such commission may be directed to the *Judge having Jurisdiction* within the district within which the commission is to be executed. And the Judge shall, at his discretion, *execute* the commission *in his own* Court, *or direct it to any subordinate Court* within his district, which shall have the same effect for all the purposes of this Act as if the commission had in the first instance been directed to such subordinate Court. And *no deposition* taken under this Act, *except as hereinafter mentioned*, shall be *read in evidence without the consent* of the party against whom the same may be offered, *unless* it be proved that the deponent is beyond the Jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without *collusion*, more than *fifty coss* from the place where the Court is held, or exempted by law absolutely, or at the discretion of the Court, from personal appearance in Court, or unless the Court shall, at its *discretion*, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced, and shall have delivered his testimony, it shall be lawful for the Court at its *discretion* to authorize the reading of the deposition. And all depositions taken under this Act, being duly certified, may be read, at the discretion of the Court, without proof of the *signature* to such *certificate*.—Act VII, 1841, Sec. v.

Any Court, other than one of Her Majesty's Courts, or any Judge thereof, may issue such commissions as aforesaid, and such orders as are indicated in Sections ii. and iii. to be executed within the local limits of the Jurisdiction of any of *Her Majesty's Courts*, and all such commissions and orders, except when directed otherwise than to a Court, shall be directed to a Court of Requests,* having Jurisdiction within such limits, or any part thereof.—Act VII, 1841, Sec. vi.

Such Commissions and orders

* The "Calcutta Court of Small Causes," established under the provisions of Act IX, 1850, is declared in Sec. vi of that Act to be a Court of Requests within the meaning of this Act.

as aforesaid may be issued for execution under this Act, within the territories of *Princes and States in alliance* with the East India Company, and all persons within such last-mentioned territories, *being in the service of the East India Company* are hereby required to pay *obedience* thereto, and for disobedience thereof, shall, on being found within the Jurisdiction of the Court, or Judge issuing any such commission or order, be *punishable* in like manner, as if such offence had been committed within such Jurisdiction; and for giving *false testimony* under the same shall be punishable by any Court of Justice within the territories of the East India Company.—Act VII, 1841, Sec. vii.

Whenever the evidence of any absent witness shall be required out of the Jurisdiction of the Court, in which the proceedings for which the evidence is wanted, may be pending, and the commission shall be directed to any Court, such Court may punish the wilful disobedience of any such order as aforesaid as a *contempt*, *notwithstanding* it shall *not itself* have made such *order*, with the same amount of punishment as in other cases of refusing or neglecting to give testimony.—Act VII, 1841, Sec. viii.

EVIDENCE; *Witness; Criminal conviction.*

No person shall by any conviction for any offence whatever be incompetent to be a witness in any stage of any civil cause before any Court in the territories of the East India Company.—Act XIX, 1837. Vide also Act XIX of 1853.

EVIDENCE; *Witnesses; Documents; legal advisers.*

A barrister, attorney, or Vakeel, shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the *knowledge* of which he shall have *acquired* in the course of his *professional* employment. The *privilege*, however, is that *of* the *client*; and if any *party* to a suit shall *give evidence* therein *at his own instance*, he shall be deemed thereby to have *waived his privilege*, and to have consented to the disclosure by such barrister, attorney, or Vakeel, of any such matter as aforesaid which may be relevant, and which the barrister, attorney, or vakeel would have been bound to disclose, but for the privilege of his client, and the barrister, attorney, or vakeel shall be bound, upon examination, to disclose any such matter.—Act XIX, 1853, Sec. xxiii.

EVIDENCE; *Witnesses failing to attend Summons. Vide pp. 52 and* 54.

If any witness, whether a party to a suit or not, to whom any summons to give evidence or produce a document, shall have been personally delivered, shall, without lawful excuse,

fail to comply with such summons as required by this Act, or attending, or being present in Court, shall, without lawful excuse, *refuse* to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the Court so to do, the Court shall have full power and authority to issue an order in writing to the nazir to apprehend and bring the witness before the Court; or if he be already before the Court, to take him into *custody*. And such Court may impose on such witness a *fine* not exceeding five hundred rupees for his default or refusal, realizable by attachment and sale of his property, and may commit him to close *custody until* he shall *consent* to give his evidence, or to sign his deposition, or to produce the document, and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of such person: Provided that no fine imposed under the provisions of this Section shall exceed the amount of the property in dispute in the suit. If any such person shall *abscond*, or keep out of the way so that he cannot be seized or brought before the Court, his property shall be liable to attachment and sale in the same manner as is provided by Section xxviii. with respect to a witness on whom the service of a summons cannot be effected. If such person shall be a party to the suit, the Court, instead of proceeding in the manner above pointed out, may, if the witness be a plaintiff, appellant, or petitioner, *dismiss* the complaint, appeal, or petition, *with costs* against such party, or if such party be a defendant or respondent, may hear, and decide the case against such defendant or respondent *ex-parte*. If any such complaint, appeal, or petition shall be dismissed for such cause, the complainant, or petitioner shall be *debarred* from preferring any other petition, appeal or complaint in respect of the same matter.—Act XIX, 1853, Sec. xxiv.

EVIDENCE; *Witnesses; if Summons cannot be served; proclamation; attachment; sale; appeal from above order.*

If a person, whether a party to a suit or not, for whose attendance, either to give evidence or produce a document, a summons shall be issued, cannot, after diligent search, to be certified by return of the nazir, be found, the Court upon proof that the evidence of such witness, or the production of the document is material, and that the witness absconds, or keeps out of way, to avoid being served with a summons, and that he could not, after diligent search, be found or served with the summons, may cause a *proclamation* requiring the attendance of such person to give evidence or produce the document, at a time and place to be named therein, to be affixed, in the presence, and

with the attestation of two respectable householders in some conspicuous place, *upon or near to his house* or place of abode; and if such person shall not attend at the time and place to be named in such proclamation, and it be proved to the satisfaction of the Court that the witness cannot be found, his property, real and personal, to such amount as the Court shall deem reasonable, (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent,) shall be liable, under an order of the Court, to *attachment and sale: Provided* always, that when the order for attachment and sale has been issued by any Court subordinate to the Court of Sudder Dewanny Adawlut, a *summary appeal* shall lie within *one month* from the date of the order of the subordinate Court, to the Court to which its orders are generally appealable; and that the *rules* for the time being in force, in regard to sales made in execution of decrees, as to the mode and period of attachment and the place or manner of sale, and as to claims of *third parties* to property attached and notified for sale, shall be held applicable to such sales.—Act XIX, 1853, Sec. xxvii.

The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment shall not proceed to sale of the property, but shall order the same to be *released* from attachment, *if* the witness shall appear and *satisfy* the Court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein. Upon the appearance of such witness, the Court shall make such order in regard to the costs of the attachment as it shall deem fit. If the witness appearing, shall fail to satisfy the Court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not such notice of the proclamation as aforesaid, it shall be in the *discretion* of the Court to order the property attached, or any part thereof, to be *forfeited* and sold for the purpose of satisfying all *costs* incurred in consequence of such defaulter absconding, or keeping out of the way, and such fine not exceeding the amount in dispute in the suit, as the Court may deem fit to impose upon the witness, having regard to all the circumstances of the case, and the condition in life of the witness; or the Court may order the property to be released from attachment upon payment of such costs and fine as aforesaid.—Act XIX, 1853, Sec. xxviii, cl. 1.

An order made in pursuance of this Section shall be subject to *appeal* in the same manner and within the same period, as an appeal against an order for

attachment and sale under Section xxiii.—Act XIX, 1853, Sec. xxviii, cl. 2.

EVIDENCE; *Witnesses; postponement of cases for.*

It shall *not* be necessary to *postpone* the hearing or decision of a case for the non-production of a document, or for the evidence of a witness who may neglect or refuse to attend, or who shall abscond, or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case; *provided* that when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence, or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence, or produce the document required; and that where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.—Act XIX, 1853, Sec. xxx.

EVIDENCE; *Witnesses; Any party in Court may be compelled to give evidence.*

Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document *then and there* in his actual possession, or in his power, in the same manner and subject to the same rules *as if* he had been *summoned* to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.—Act XIX, 1853, Sec. xxv.

EVIDENCE; *Witnesses; Refusing to give evidence, or produce document. Damages.*

Any person whether a party to the suit or not, to whom a summons to attend, and give evidence or produce a document, shall be *personally delivered*, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence, or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings under this Act, be liable to the party at whose

request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all *damages* which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a Civil Action.—Act XIX, 1853, Sec. xxvi.

EVIDENCE; *Witnesses; manner in which it is to be taken.*

On the day appointed for the hearing, the evidence of the attending witnesses shall be taken *orally in open Court*, in the presence and hearing, and under the personal direction and superintendence of the *Judge*. The evidence of each witness given upon such examination shall be taken down in *writing*, by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a *narrative*, and when completed shall be *read* over *to* the witness, and *signed by* him in the presence of the Judge, and of the parties to the suit, or their *Vakeels*, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon, as the Judge shall think fit to make. It shall be in the *discretion* of the Judge to take down, or cause to be taken down, any particular *question and answer*, if there shall appear any special reason for doing so, or any party, or his vakeel, require it. If any *question* put to a witness be *objected to* by either of the parties, or their Vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the *demeanour* of any witness whilst under examination.—Act XIX, 1853, Sec. xxxi.

EVIDENCE; *Witnesses; females of rank.*

In cases where the evidence is needed of females, who, according to the custom of the country, ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of Justice require and justify it, such Court may issue a *commission* to any Officer of the Court, or other person, to be named in such commission, for the examination of such females *in the hearing* of the parties to the suit, or their Vakeels, in such manner as the Court may direct, having regard to the *custom* and usage of the country, and with liberty to the parties, or their Vakeels, to cross-examine, anything in Sec. v, Act VII, of 1841, to the

contrary notwithstanding.—Act XIX, 1853, Sec. XXXII.

EVIDENCE; *Witnesses; Postponement; Notices.*

On or before the day appointed for trial, the Court may for any sufficient reason, such as the unavoidable absence of any material witness, or for other good cause, on the application of either party, postpone the hearing to another day, to be named, on such terms as to the payment to the opposite party of his *costs*, occasioned by the postponement, and otherwise, as to the Court shall seem reasonable. In such case, notice in writing shall be given to each of the witnesses to attend and give evidence, or to produce a document, on the substituted day, instead of the day mentioned in their summonses, if there be time to do so and the Judge shall so order. The notice shall be served in the same manner as a summons. The service of such notice shall have the same effect as if the substituted day had been originally named in such summons, as the day for the appearance in Court to give evidence, or produce a document, and all the provisions in this Act, relating to summonses to give evidence or produce documents, shall extend to such notices in the same manner, as if such notices had been expressly mentioned in such provisions. If the application be too late to serve such notices, the Court may order that the examination of any witness who may be present, or shall attend in pursuance of a summons, shall be proceeded with, and that the further hearing of the case, after the examination of such witness, shall alone be postponed.—Act XIX, 1853, Sec. XXXIII.

EVIDENCE; *Witnesses; if not postponed.*

Unless the hearing be postponed in manner aforesaid, it shall *commence* on the day appointed, or as soon afterwards as the business which may be pending before the Court, and may be entitled to priority, will allow, and the recording of evidence on the trial of any suit, when begun under the rules above enacted, shall, unless there be good and sufficient reason to the contrary (which reason shall be recorded), *continue* on the same day, or on consecutive business days, until the whole of the evidence of the witnesses present shall be heard. The *parties*, or such of them as desire it, shall then be *heard*, either by themselves or their pleaders, *orally*, on the merits of the case, as regards the issues both of fact and law, and after considering the arguments and evidence, the Judge shall record his *judgment* under Act XIX, 1853, Sec. XXXIV.

EVIDENCE; *Witnesses; if Court wishes for any further. Females.*

If the Court, after the evidence of all the witnesses shall have been heard, and before hearing the pleaders or recording the judgment, shall think it necessary for the ends of Justice to *inspect* any *docu-*

ment, or to examine any *party* to the suit, or any other person whose evidence may appear to be material, the *Court, of its own accord*, may cause such party or person to be summoned to attend as a witness, to give evidence, or to produce such document, if in his possession, on a day to be appointed, and may examine such party or person, as a witness in open Court, or in such other manner as the Court may direct, upon any question which the party or witness may be bound to answer, and the Court may think necessary, and may also compel the production of any document mentioned in such summons, which any such person may have in his possession or power, and be bound to produce. Any witness so called shall be subject to the cross-examination of either party, or his Vakeel If such person, whether a party or not, shall be a *female*, who, according to the custom of the country, ought not to be compelled to appear as a witness in a Court of Justice, the Court may order such person to be examined in the manner provided by Sec xxxii of this Act, upon such questions as it may direct. The Commissioner, or other person authorized to take the examination in such case, may put such further questions as in his judgment may be necessary, or may arise out of the answers to be given to the questions directed by the Court.—Act XIX, 1853, Sec. xxxv.

EVIDENCE; *Witnesses, Removal of from Court.*

The Judge may cause public notice to be given in Court, either before or during the examination of any witness, requiring all or any other witnesses, whether parties or not, who have been summoned or inserted in the list of witnesses in the same cause, to leave and to remain out of Court until further order. Any witness in a cause who without lawful excuse shall wilfully remain in or come into Court, *contrary* to such notice, shall be *punishable* in the same manner as for a *contempt* of Court in open Court. Whenever such notice shall be given the consequence of disobedience thereto shall be publicly explained at the time of giving the notice.—Act XIX, 1853, Sec xxxvi.

EVIDENCE; *of local enquiry; Ameen.*

In cases of disputed property regarding lands, houses, or their limits or boundaries, in which the Court may deem a local investigation proper, the Court is to appoint an Ameen, who is to be *sworn* to make a true and faithful *report* to the Court of the several matters which he may be directed to investigate, and not to take or receive, directly or indirectly, from either party, any gratuity reward, or consideration, besides the sum which may be allowed to him by the Court. The Ameen is to be ordered to make his report in writing, subscribed with his name,

and to deliver it into Court on a certain day, which is to be specified in his commission. The *report* is to be received by the Court *as evidence* in the cause, with regard to the matters which the Ameen may be commissioned to investigate, and no other. The Court may order such sum to be paid to the Ameen as may be thought reasonable for his trouble, and the amount is to be added to the costs, and paid by the person against whom the decree may be passed. But the Court is to be careful that expenses are not unnecessarily incurred by the Ameen by delay or other means.—Reg. IV, 1793, Sec. xvii.

EVIDENCE; *Reports of ministerial officers; Do. of Law Officers.*

The Judges of the Zillah and City Courts are strictly enjoined *not to order or allow* of a report of any matters of *facts* relating to any cause depending before them, with a view to the passing a decree, to be made to them by any officer of the Court, or any other person; *excepting* in cases in which special authority for that purpose may be given to the Courts by any Regulation. This rule, however, is *not* to be construed to *prevent* a Judge referring any question arising on the Mahomedan or Hindoo *law* to the *Cauzy* or *Pundit* of the Court, respect being had to the law in which each is conversant. When a reference of this nature is deemed necessary, a statement of the facts on which the question of law may arise is to be made out in writing, and signed by the Judge of the Court, and delivered to the Cauzy or Pundit for his opinion upon it. A blank is to be left for the *answer* of the law officer *on the same paper* on which the question is stated, or on a paper firmly annexed to it. The answer is to be attested with the signature of the law officer, and the *dates* on which the questions may be stated to him, and the answer may be given, are to be specified.—Reg. IV, 1793, Sec. xvi.

EVIDENCE; *Special references to, and enquiries by Sudder Ameens; instructions to; and pay of.*

In the trial of regular suits by the Zillah and City Judges, or in miscellaneous cases, whenever the adjustment of *accounts*, regarding the execution of decrees, and mercantile or revenue transactions, or the investigations of disputes between landlord and tenant, or of other special matters of *account*, *fact*, *or usage*, may be requisite, and such adjustment or investigation, if conducted by the Judge himself, would occupy a larger portion of his time than could be conveniently devoted to it, the Judge is authorized to direct any of the Sudder Ameens under his Jurisdiction to make such adjustment or investigation.—Reg. XXIII, 1814, Sec. lxxvi, cl. 1.

The Judge shall, in these cases, furnish to the Sudder

Ameen such part of the *proceedings* and such detailed *instructions*, as may appear necessary for his information and guidance, and shall direct the *parties*, or their Vakeels or authorized agents, to *attend* upon the Sudder Ameen during the adjustment or investigation.—Reg. XXIII, 1814, Sec. lxxvi, cl. 2.

The instructions must distinctly *specify whether* the Sudder Ameen is merely to *transmit the proceedings* which he may hold on the inquiry, *or* also to *report* his own *opinion* on the point referred for his investigation.—Reg. XXIII, 1814, Sec. lxxvi, cl. 3.

The proceedings of the Sudder Ameen are to be received in *evidence* in the case, unless the Judge may have reason to be dissatisfied with them, in which case he will make such further inquiry as may be requisite, and will pass such ultimate judgment or order as may appear to him to be right and proper.—Reg. XXIII, 1814, Sec. lxxvi, cl. 4.

The adjustments or investigations described in this section shall be referred to such Sudder Ameens, in all cases in which it would be *improper* to burthen the parties with any additional *expense*. In consideration of the monthly salary received by such Sudder Ameens from Government they shall not be entitled to receive any additional compensation in those instances, either from the parties or from Government. If any necessary expense be incurred in making the inquiries or adjustments referred to, it shall be competent to the Judge, on the completion of the inquiry or adjustment, to order payment of the amount of such *necessary expense* by one or both of the parties in the case, as may appear just and proper.—Reg. XXIII, 1814, Sec. lxxvi, cl. 6; Reg. XIII, 1824, Sec. v.

EVIDENCE; *Special enquiries by Moonsiffs; instructions to; reports of, as evidence.*

In questions which may arise in suits depending before the Judge or any Zillah or City Court relating to the adjustment of accounts in revenue or mercantile transactions, or regarding the boundaries of lands or houses, or regarding the right of way in roads or pathways, or regarding any rights in forests, commons, rivers, lakes, ponds, wells, reservoirs, or watercourses, or regarding the quantity or description of land and the rent to which it is liable, and generally in all questions of *local rights and usages* which cannot be conveniently decided without an inquiry *upon the spot*, the Zillah or City Judge may empower any *Moonsiff* within his Jurisdiction to make a local investigation into the merits of the question in dispute.—Reg. XXIII, 1814, Sec. 1, cl. 1.

The Zillah or City Judges shall furnish to the Moonsiff such part of the *proceedings*, and such detailed *instructions* in each case, as may be necessary for his information and

guidance; and shall enjoin the Moonsiff, either merely to *take* the requisite *evidence* in the presence of the parties or their Vakeels, *and* to *transmit* the same to the court, *or* likewise to transmit, with the evidence so taken, a *report* of his own *sentiments* on the point at issue, founded on the result of the investigation held by him. —Reg. XXIII, 1814, Sec. 1, cl. 2.

The *proceedings of the Moonsiff* are to be received as *evidence* in the case, with regard to the specific matter which he may have been directed to investigate; *but* if the Judge shall have reason to be dissatisfied with the proceedings of the Moonsiff, he is at liberty to make such further inquiry as may be requisite, and to pass such ultimate judgment as may appear to him to be right and proper.—Reg. XXIII, 1814, Sec. 1, cl. 3.

EVIDENCE; *Local enquiries other than Sudder Ameen and Moonsiff.*

The provisions of the preceding Sections are not intended to preclude the Zillah and City Courts from deputing an Ameen for local inquiries, or from employing the authorised *Officers of the Court* in the execution of the various duties above detailed, whenever they may deem it expedient to do so, in conformity with the existing Regulations; and the Zillah and City Judges willl be careful that the time of the Moonsiffs be *not* so much occupied in the miscellaneous duties above described, as to *interfere* materially *with* the early trial and decision of the Regular *suits* depending before them.—Reg. XXIII, 1814, Sec. liv.

EVIDENCE; *Construction of the word "Courts, Suits," &c.; Extent of Act.*

In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction or which would render such construction inapplicable to the case, the word "*Court*" shall *mean* any Civil Court of the East India Company, and shall include any Judge or other Officer or person mentioned in Sec. ii, of this Act; the word "*Judge*" shall be understood to *mean* the Chief Judicial authority presiding in any such Court, and shall include any Officer or person having, by law, or consent of parties, authority to examine witnesses and to act judicially; the word "*suit*" shall be deemed to *mean* and include *any suit, appeal or proceeding* mentioned in Sec. ii, of this Act; the word "*witness*" shall include *all persons* competent and liable to give evidence, whether parties to any suit or proceeding or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versâ*.—Act XIX, 1853, Sec. xli.

This Act shall extend *only to Civil* proceedings, *and* to the Presidency of Fort William in

Bengal, and shall not include any of Her Majesty's Supreme Courts of Judicature.—Act XIX, 1850, Sec. xlii.

The provisions of Secs. ix, x and xi, of this Act, shall not extend to the Zillah of Chittagong or Sylhet.—Act XIX, 1853, Sec. xliii.

EXECUTION OF DECREES; *how to be done; Petition what to contain; how to be tested; Real and Personal property; Deferring and notice in what cases; Fees and Costs; Alienation and Security.*

The Zillah and City Courts, and the Sudder Dewanny Adawlut, shall not be required to carry into execution any decree which may be passed in original suits or in appeals, except in conformity with the following *rules* and provisions.—Reg. XXVI, 1814, Sec. xv, cl. 4.

Any party who may be desirous of obtaining the execution of a decree, shall appear either in person or by an authorized pleader, before the Court by whom such decree may have been passed, and shall present a *petition* written on the stamped paper prescribed in No. 10, Sched. B, Reg. X, 1829, praying for the execution of the decree.—Reg. XXVI, 1814, Sec. xv, cl. 5.

The *petition shall state* the *number* of the suit, the *names* of the parties, the *date* and *substance* of the decree, whether any *appeal* has been preferred or admitted from the decision, and whether any and what *adjustment* of the matter in dispute has been made between the parties subsequently to the decree; it shall further contain a statement of the specific *amount* due to the petitioner under the *decree*, whether on account of *costs* of suit or otherwise, and the name of the individual or individuals against whom the enforcement of the decree is solicited.—Reg. XXVI, 1814, Sec. xv, cl. 6.

The Court, after causing the purport of the petition to be *compared* with the decree contained in the original record of the suit, shall proceed to execute the same in conformity with the provisions which are now in force, or which may be hereafter enacted.—Reg. XXVI, 1814, Sec. xv, cl 7.

Applicants for execution of decrees may file with their petitions an authenticated *copy* of the decree of which execution is sought to be taken out, and in such case it shall *not* be necessary to *compare* the petition, the decree contained in the original record of the suit, anything in the preceding Section to the contrary nowithstanding. —Act XXVI, 1852, Sec. vi.

The *decree* is to be executed, if it be for a Zemindarry, independent or dependent Talook, or other estate or *real property*, *by* causing *possession* of the property to be delivered to the person to whom it may be decreed; if it be for *personal property* or a sum of money, by causing the *specific thing* to be *delivered*, *or* the *value* of it, or the sum of money decreed, to be levied *by public sale* by

auction of a sufficient portion, or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all other effects, either real or personal, belonging to the party against whom the judgment may have been given, or by the *attachment* of his person, or where it may be necessary, both by the sale of his property and effects, and the attachment of his person.—Reg. IV, 1793, Sec. vii.

Provided, however, that if the suit shall have been tried *exparte*, or that an interval of more than *one year* shall have elapsed between the date of the decree and the application for its execution, or that the enforcement of the decree shall be solicited against individuals, being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree, or if there shall appear reason to believe that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing adjudged, or by the payment of the sum decreed, either in whole or in part, by *kistbundee* or otherwise, it shall be competent to the Court, instead of proceeding to the immediate enforcement of the decree, to issue a *notice* to the party against whom execution may be sued out, requiring him to *show cause*, within a limited period to be fixed by the Court, why the decree should not be executed against him. If upon such notice the party shall *not attend* in person or by Vakeel, or shall *not show* sufficient *cause* to the satisfaction of the Court why the decree should not be forthwith executed, the Court will cause the judgment to be satisfied according to the rules in force. *If* the party shall attend in person or by Vakeel and shall offer any *objection* to the enforcement of the decree, the Court shall issue such order, after a due consideration of the circumstances of each case, as may appear just and proper.—Reg. XXVI, 1814, Sec. xv, cl. 8.

The preceding rules shall not be construed to prevent the Courts from issuing process of execution, for the purpose of recovering any *fees* or *costs* which may be due to Government. In such cases, as well as in suits in which a party may have been allowed to plead in *formâ pauperis*, the Courts shall proceed *without* any *application* from the parties to enforce execution of the judgment, so far as relates to the recovery of the amount of fees or costs due to Government.—Reg XXVI, 1814, Sec. xv, cl. 9.

The provision of cl. 8, Sec. xv, Reg. XXVI, 1814, *were* meant to be *imperative* in the cases referred to, and not to leave a discretion with the Court; at the same time, with a view to guard against abuses, it is now further provided that whenever it may be shown, by satisfactory evidence, that the

party against whom the decree was passed, or, in the event of his decease, his legal representative, who may have become answerable for the fulfilment of it, is about to *remove* or dispose of the *property* from which the judgment should be satisfied, the Court shall be authorized to require *security* in such amount as may appear sufficient for making good the decree, and, in the event of such security not being given, to cause an *attachment* of property, as provided for in similar cases, whilst a suit is depending.—Reg. VII, 1825, Sec. vii.

EXECUTION, *if neither party can give security, attachment, &c.*

As cases may occur wherein neither the appellant *nor* the respondent may be *able to give* the prescribed *security* for staying the execution of decrees, or for the execution thereof in favour of the plaintiff, in all such cases, the property adjudged shall be held in *attachment* during the appeal, or until such time as one of the parties may be able to give the required security, by the Collector of the district wherein the land may be situated, at the *expense* of the party who may be ultimately declared entitled thereto; and under the provisions relative to the attachment of lands for sale in pursuance of decrees of the Courts of Justice, as far as the same are applicable. *No attachment* however, is to be made by any *Collector* in the cases herein supposed, *until* he receive a *precept*, requiring him to make the same, from the Court wherein the original judgment in the cause may have been passed; which precept shall state specifically the property to be included in the attachment, and shall require the Collector to continue the same till ordered to be *withdrawn* by a *further precept* from the Court, to be issued either on the prescribed security being given by one of the parties, or on the cause being finally determined.—Reg. V, 1798, Sec. vi.

EXECUTION; *security; transfer; Allowed under; Exception.*

All persons who may enter into security bonds for the execution of decrees of the civil Courts, or for staying the execution of judgments in civil suits during an appeal in such suits, are *prohibited* from *transferring* or from causing to be transferred, by sale, gift, mortgage, or otherwise, any *land or* other *immoveable* property belonging to them, and specified in the Schedule of property on which their security may have been accepted, until the object of their security shall have been completely fulfilled.—Reg. XXVI, 1814, Sec. xiii, cl. 2.

This prohibition, however, shall *not* be construed to *affect* the legality of any private *transfer or mortgage* of such property, in cases in which the amount of any demand on the surety, which may eventually arise under the terms of the *security* bond, shall be duly *discharged* by him; but it is hereby declared, that no private transfer or

mortgage of such property which may be made by a *surety* in the *interval* between the execution of the *security* bond and the final and complete enforcement of the *judgment*, shall be considered to *bar* the prior right of the Court to hold the whole or any part of such property answerable in the first instance for the amount of any demand upon it which may eventually arise under the terms of the security bond, and which may not be duly discharged by the surety.—Reg. XXVI, 1814, Sec. xiii, cl. 3.

EXECUTION; *Instalments; payments by; orders in decrees as to.*

Doubts have been entertained whether any of the established Zillah or City Courts are competent to provide in their decrees for the payment by instalments of money adjudged by them, or to make such provision, in cases of indigence, at any period after passing their decrees, it is hereby declared, that the Civil Courts in general are *restricted* from granting indulgence of time in the satisfaction of a final judgment, when property from which such judgment can be satisfied (whether belonging to the party against whom the judgment is given or to his surety or sureties for the performance of such judgment) may be forthcoming; *unless* the party in whose favour the decree is passed shall *consent* to waive his right of immediate enforcement, under an engagement for gradual payment or otherwise; or unless a short postponement of the sale of property shall, under any particular circumstances, appear just and equitable. But when no property may be pointed out from which the judgment can be enforced, and the party against whom it is passed, or his surety if he have given any, may be willing to engage (under sufficient malzaminy or hazirzaminy security, as one or the other may be tendered or required) for the liquidation of the amount due, by instalments, within such period as the Court passing the final decree, or entrusted with the execution of it, shall deem reasonable and proper, it shall be competent to the Court by which the final judgment is given, and to any superior Court revising the proceedings of an inferior Court, to accept the engagement so offered, and to cause execution of the decree in conformity therewith, so long as the conditions of it shall be duly fulfilled. In such cases, if the person delivering the accepted engagement shall have been taken into custody, he shall be immediately discharged, and shall not be liable to further arrest in execution of the judgment to which such engagement may refer, except on failure to perform the terms of it; nor shall any interest be chargeable in such instances beyond what may be provided for in the engagement. —Reg II, 1806, Sec. x.

EXECUTION; *possession of decree-holder; on giving security for*

appeal; power of appellate Court to order otherwise; Revenue; Provision for additional security by Sudder Dewanny Adawlut.

Whenever a person *claiming* the proprietary right in land, houses, or other immoveable property *not in his possession*, shall obtain a decree, upon investigation of the merits of the case, the Court, before which the suit may be tried in the first instance, adjudging him to be the proprietor of such lands, houses, or other immoveable property, he shall obtain *possession* thereof in execution of such decree, notwithstanding an appeal therefrom, provided he shall give good and sufficient *security* for performing the decree which may be passed upon the appeal, in a *sum* equal to *one year's produce* of the property adjudged, *if malgoozary* land, or *ten years' produce if* the land be *lakheraj*, or the computed value, if it be a house, or immoveable property of any other description.—Reg. XIII, 1808, Sec. xi, cl. 2.

Provided, however, that if the Court to which the appeal may be preferred in such cases, shall, in any instance, see *special cause* for leaving the appellant in *possession during the appeal*, it shall be competent to that Court to order the same; requiring, in such case, from the appellant, the same *security* as is above required to be given by the respondent.—Reg. XIII, 1808, Sec. xi, cl. 3.

Provided further, that whether the appellant or respondent be left in possession of lands paying *revenue to Government* during an appeal, if the party in possession of such lands shall *neglect* to pay the revenue due upon the assessment, *and a* public *sale* shall in consequence be ordered to take place, the *party not in possession, by payment* of the revenue due, and giving the prescribed security previously to the sale, shall be put in immediate *possession*, and shall be entitled to *charge* the amount *so paid, with interest* thereupon, at the rate of one per cent, per mensem, in any adjustment of accounts which may be directed in the final decree upon the cause.—Reg. XIII, 1808, Sec. xi, cl. 4.

Notwithstanding the appellants in causes depending before the Sudder Dewanny Adawlut and the Zillah Courts, may have entered into the security required of them, those Courts are authorized, in cases wherein, from the delay in the decision, the security so given may appear insufficient, on the application of the respondent or respondents in all such cases, to require any *additional security* which they may deem necessary to secure the party who may have obtained a judgment in his favour, from any loss, by the non-execution of such judgment during the appeal; and in default of such further security being given within a reasonable period, to be fixed for that purpose, the Courts are empowered to direct

he judgment in question to be carried into execution, in like manner as if no security had been given by the appellant; provided that, in such cases, good and sufficient security, as prescribed by the Regulations, be given by the respondent, previous to his being put in possession of the property in litigation.—Reg. V, 1798, Sec. iii.

If during the trial of an appeal, the Court, before whom such appeal may be depending, shall see ground to believe that the security taken from the respondent is insufficient, it is authorized and required to take from him such *further* security as it may judge necessary In all cases of *appeal* to the *Sudder* Dewanny Adawlut, that Court is also authorized to take any *additional* security it may judge necessary, as provided with respect to security for staying the execution of decrees by the preceding rule.—Reg. III, 1802, Sec. ii.

EXECUTION *of decrees; delivery of possession by Moonsiffs.*

The Zillah and City Judges are further authorised to employ the *Moonsiffs* in *delivering* over *formal possession* of lands, houses, or other real property, in conformity *with decrees, regular or summary.*—Reg. XXIII, 1814, Sec. li, cl. 1.

EXECUTION *of decrees of Moonsiffs and Sudder Ameens.*

Decrees passed in the Courts of the *Sudder Ameens* and the *Moonsiffs* shall be executed by those Courts, *under the* general *rules* prescribed for the execution of decrees passed by the *Zillah Judges;* provided, however that the rule in question, as regards all the officers above named, shall *not* be considered to *warrant* their issuing any order on their own authority for the *confinement* of a defendant in execution of Civil process. Where such order may be requisite, the officer by whose authority the party may have been apprehended shall *forward* him, together with the subsistence-money lodged for his detention, to the *Zillah or City Judge*, who unless he see reason to the contrary, shall direct his commitment to gaol by means of his own officers. *In appeals* from the orders of the *Moonsiff* or Sudder Ameen in such cases, the decision of the *Zillah or Citiy Judge* shall be *final.*—Reg. VII, 1832, Sec. vii.

EXECUTION OF DECREES; *may be transferred to Principal Sudder Ameens.*

It shall be competent to the *Zillah and City Judges* to *refer* to the *Principal Sudder Ameens* subordinate to them, applications for the enforcement of *decrees, to be executed* by the said *Principal Sudder Ameens,* under the rules prescribed applicable to such cases.—Act V, 1836.

EXECUTION; *Sales in general, rules for.*

The rules contained in the Regulations shall *not* be considered *applicable* to the sale of houses, gardens, orchards, and small portions of land held ex-

empt from the public assessment; the *sale of which*, when requisite in execution of any decree, or other judicial process, shall be made as heretofore, *by order of the Court* or officer empowered to enforce the decree or process, without application to the Board of Revenue, or the Collector of the district, or other officer in the Revenue department.—Reg. VII, 1825, Sec. ii, cl. 2.

The *Judge*, or other officer, empowered under the Regulations to enforce a decree or other judicial process by a sale of property, is authorized to *cause* the public *sale* of any house, garden, orchard, or small portion of *lakheraj* land, which may be liable to be sold in execution of the decree, or other process, in like manner as he is authorized to cause the public sale of any personal property liable to be sold in execution of the same.—Reg. VII, 1825, Sec. ii, cl. 3.

Sales of land, or of any interest in land, *in execution* of decrees of Court, or other judicial process, shall be of the nature of *private transfers*.—Act. IV, 1846, Sec. x.

The Courts of *Sudder Dewanny Adawlut* shall, from time to time, *frame* such *rules* as to them shall seem meet, and as shall not be repugnant to anything in this Act contained, for the attachment and sale of property, in satisfaction of decrees or other process of the Courts of Civil Judicature, which rules shall, after they have been approved by the Governor General of India in Council, have the same force as if they had been part of this Act, until revoked by the said Courts of Sudder Dewanny Adawlut with the approbation of the said Governor General of India in Council, or by the said Governor-General of India in Council.—Act IV, 1846, Sec. xi.

All applications which may have been made by the Courts of Civil Judicature to the Revenue authorities for the sale of land, or of any interest in land, in satisfaction of decrees or other process of such Courts *previously to the passing of this Act*, shall be proceeded upon as if this Act had not been passed.—Act IV, 1846, Sec. xii.

EXECUTION: *Sales and attachments; real property; proclamation; simultaneous processes; reversal of Sales.*

In the territories subject to the Presidency of Fort William in Bengal, except the North West Provinces, *attachments* and *sales* of land, or of any interest in land, in satisfaction of the decrees or other process of the Courts of Civil Judicature, shall be made *by such Courts*, or under their directions, and the rules now in force for the attachment and sale of such real property as the Courts of Civil Judicature are now authorized to sell in satisfaction of decrees, *without* application to the *Revenue authorities* shall apply to attachments and sales made under the authority of this Act.—Act IV, 1846, Sec. iii.

The *Judges* of the Zillah and City Courts, who usually *employ* the *Nazirs* of those Courts, or the *Sudder Ameens* at the station of the Judge, and the local *Moonsiffs* in other parts of their jurisdictions, to conduct the public sale of personal property in execution of decrees or other judicial process, are authorized to *employ the same* officers, when it may appear expedient, *in* the public *sale* of houses, gardens, orchards, or small portions of *lakheraj* land, under the provisions of this Regulation.—Reg. VII, 1825, Sec. iii, cl. 1.

In all cases of *attachment* and *intended* sale, whether of personal property or of the landed property above described, in execution of any decree or other judicial process, a *proclamation* of the intended sale with particulars of the *time* and *place* of sale, of the *property* to be sold, and of the *amount due*, for the recovery of which the sale is ordered, shall be made in the current language of the country, for *at least thirty days before* the appointed day of sale, exclusive of the day of sale, and the date on which the proclamation may be ordered. Such proclamation shall be made in the usual mode, *by beat of drum*, on the spot where the property is attached; and a written *Notification* to the same effect shall also be affixed in some *conspicuous* place within the *village* or town in which the attachment may take place, as well as in the Cutcherry of the local Moonsiff; and at the *Cutcherries* of the *Collector* of the district, and the *Zillah Judge*, or other officer who may have ordered the sale. *When* the sale is to be made by a *Sudder Ameen*, the Notification shall also be affixed in the *Cutcherry of* such Sudder Ameen.—Reg. VII, 1825, Sec. iii, cl. 2.

The usual *processes* for attachment and sale, in such cases, *may* either *be* issued *successively or simultaneously*, as the Judge or other judicial officer, directing the sale, may in each instance think proper, with reference to the circumstances of the case. But *no sale* shall, in any instance, take place *without* a previous *proclamation*, for the period specified in the preceding clause; and any *material irregularity* in the sale, which may be established, on a summary inquiry, to the satisfaction of the *Judge*, or other officer, by whom the sale may have been ordered, shall be sufficient to *invalidate* the sale; *provided* that a *petition*, written on the stamped paper, required for miscellaneous petitions to the Zillah and City Courts, and stating circumstantially the irregularity which may have taken place, be presented to the *Judge*, or other officer, by whom the sale may have been ordered, within *one month* after the sale.—Reg. VII, 1825, Sec. iii, cl. 3.

Whenever a public sale may be *set aside*, as invalid, under the preceding rule, or on any account whatever, and *no*

collusion or *fraud* shall appear on the part of the purchaser, he shall be entitled to *receive back his purchase-money*, on restoring any property delivered over to him, with or without interest, in such manner as it may appear proper to direct in each instance.—Reg. VII, 1825, Sec. iii, cl. 4.

EXECUTION: *Sales and attachments; claims to.*

In the event of any claim being preferred to the property advertised for sale, under the provisions of Sec. iii, Reg. VII, of 1825, or of any *objection* being offered to the proposed sale, within the period of the proclamation; such claim or objection shall be *inquired into* by the Judge, *or* other officer, who may have ordered the sale, or may be referred for inquiry and report to *a Sudder Ameen or local Moonsiff*; and if it appear necessary, the time of *sale* shall be *postponed till* such claim or objection have been *investigated; provided* that the representation of it (which, in all instances, is required to be preferred to the *Judge* or officer ordering the sale, as soon as practicable after the publication of the intended sale) shall *not* appear to have been *designedly* and unnecessarily *delayed*, with a view *to obstruct* the ends of *justice*. In such cases, when the *fraudulent design* may appear evident, the sale shall *not* be *postponed*; and the *claimant* shall be left to prosecute his claim, after the sale, by a regular *civil suit*.—Reg. VII, 1825, Sec. iii, cl. 6.

EXECUTION: *Sale, in; Revenue paying Estate; Decree holder, what to file.*

Whenever a holder of a decree of any Court of Civil Judicature shall apply to such Court for the sale in execution of any *estate paying revenue to* Government, or any portion of any such estate, he shall, at the time of making such application, file an authenticated *extract* from the *Register* of the Collector's office, specifying the *jumma* of such estate, which shall be inserted *in* the *Notification* of sale.—Act IV, 1846, Sec. iv.

EXECUTION: *Sales in; what is sold.*

In all cases of a public sale of property, under the foregoing rules, (Sec. iii. Reg. VII, of 1825,) it shall be *clearly explained* to the bidders at the sale, that *nothing* is guaranteed to them in the land, or other property sold, *beyond the rights and interests therein of* the individuals *answerable for* the amount of the *decree, or* other *process*, in execution of which the sale is made.—Reg. VII, 1825, Sec. iii, cl. 7.

EXECUTION: *Sales in; Deposit of purchaser.*

The *purchaser* at any such sale shall be required to *deposit* immediately, either in *cash*, Bank of Bengal *notes*, or *post bills*, or Government *securities* duly endorsed, *fifteen per cent.* on the amount of his bid, and in *default* of such deposit, such land or interest there-

in shall forthwith be *put up again* and sold; and if the purchaser, having paid the deposit required, shall *neglect* or refuse to pay the *purchase money* within the *period* which may be stipulated, the *deposit* shall be *forfeited* and shall be applied to defray the expenses of the sale, and the *surplus* shall be *forfeited* to Government, and the land, or interest therein, or such portion thereof as may be sufficient to satisfy what remains due, shall be *again put up to* sale, due Notification having been first given. —Act IV, 1846, Sec. v; Act XXV, 1850, Sec. ii.

The Judges of the several Civil Courts are authorized to require the aid of the local *Collector* in the enforcement of all decrees which may be passed by them, or which may be sent to them for enforcement by the Superior Courts, affecting the proprietary right to, or possession of, any *lands paying revenue* to Government, *or held exempt* from the payment of revenue, whenever it may appear conducive to their speedy and complete execution, whether by giving possession to the parties entitled thereto, or by the adjustment of a *wasilaut* account, or otherwise. —Reg. VII, 1825, Sec. vi.

EXECUTION: *Sales and attachments; open to appeal; Summarily.*

The summary decision passed by the Zillah or City Judges, under Sec. iii, Reg. VII, of 1825, shall be open to a *summary appeal* to the Sudder Dewanny Adawlut, under the general rules for such appeals.—Reg. VII, 1825, Sec. iii, cl. 5.

EXECUTION: *Sales in: further rules for claims and objections.*

The *provision* contained in cl. 7, Sec. iii, Reg. VII, of 1825, shall be considered *applicable* to all public *sales of land* made by the *Collectors*, or other officers of Government, in the *Revenue department*, in execution of decrees of the *Courts* of judicial process; and the following *additional rules* are prescribed respecting such sales, in modification of those now in force.—Reg. VII, 1825, Sec. iv, cl. 1.

In the event of any *claim* being preferred, or *objection* offered to the *Collector*, against the sale of the lands proposed to be sold, as *not belonging* to the person or persons answerable for the amount of the decree or other process to be enforced, and consequently not liable to be sold in execution thereof, the Collector shall *communicate* such claim, or objection, with any *information* which his official records may enable him to furnish on the subject, *to* the *Court* which may have applied for the sale; and shall be *guided by* the *instructions* which he may receive in answer, whether to proceed with the sale, or otherwise.—Reg. VII, 1825, Sec. iv, cl. 4.

In all cases of a claim, or objection being communicated by a Collector, to the Court enforcing a decree or other

process under the foregoing clause, or of a claim to lands proposed for sale in execution of judicial process, being received from the claimant, by the *Judge* or other officer who may have required the sale, it shall be his *duty* to enter upon an immediate *summary inquiry* into the truth and foundation of such claim; and *if* it appear *proper*, he shall instruct the *Collector* to *postpone* the intended sale until such inquiry shall have been completed: *Provided*, however that such postponement shall *not* be necessary, *when* the claim or objection may *not* have been preferred within a *reasonable time after* the *Collector's* publication of the intended sale, and may appear to have been intentionally delayed, with a view to obstruct the sale. In such cases the Court may order the sale to take place, and refer the claimant to a *regular* suit in prosecution of his claim.—Reg. VII, 1825, Sec. iv, cl. 5.

EXECUTION: *Sales in; Reversal of; Powers of Judges; as to Revenue officers.*

A *doubt* having been entertained whether public *sales* of land made by the *Revenue Officers* of Government, in satisfaction of decrees or other process of the Court of Judicature, can be summarily *set aside*, without a regular Civil suit, or proof of irregularity in publishing and conducting the sale, or otherwise; it is hereby declared, that the Zillah or City *Court*, or other judicial authority who may have *ordered the sale* in such cases, shall be *competent* to declare the same *null and void*, and to order a *re-sale* in the mode prescribed by the Regulations, if, on summary inquiry, any *material deviation* therefrom, and consequent *irregularity* in the sale, be satisfactorily *established; provided* that a petition containing a circumstantial *statement*, of such irregularity, and written on the stamped paper required for miscellaneous petitions in the Zillah and City Courts, be *presented to the Court, by which* the sale may have been *ordered*, within a month after the sale. In such cases the Court directing the sale to be set aside shall be further competent to direct a return of the *purchase-money*, with or without interest, as provided for in similar cases by cl. 4, Sec. iii, Reg. VII, of 1825.—Reg. VII, 1825, Sec. v, cl. 1.

EXECUTION: *Sales in; if property is sold for arrears of Govt. Revenue when in appeal, and purchased by Respondent; money how to be adjusted.*

In all instances wherein the *Plaintiff*, in any of the established Courts of Justice, may obtain a *judgment* in his favour for land or other real property, and the *Defendant*, *appealing* therefrom to a superior Court, may be *left in possession* of the property, under the *security* prescribed by the Regulations, any *private transfer* of such property by sale, gift, or otherwise, or any mortgage thereof, which might be made by such appellant dur-

ing an appeal, whether regular or special, would, in the event of the judgment against him being confirmed on the appeal, be of course, and is declared to be, *null and void;* but as *malgoozarry* lands (lands assessed with the public revenue) are in all cases, by whomsoever possessed held *answerable for* the public *revenue* assessed thereon, and as, according to the general rules established for the collection of the public revenue, such lands, *and* also *lakheraj* lands, and other property appertaining to the same estate, may become *liable to sale* by Government, from the neglect of the party in possession to discharge the revenue due therefrom, by which sale, in cases of appeal, the party to whom the property of the lands is ultimately adjudged might notwithstanding be deprived of it, unless he purchased the same at the public sale; to obviate all doubt respecting the *right of the party making the purchase* in such cases, it is hereby declared, that whenever any land or other property, for which a judgment may have been obtained in any of the established Courts of Justice, but which, during an appeal from such judgment by the party cast, may be left in the possession of the appellant, shall, while such *appeal* is *pending,* or before the ultimate judgment thereon, be put in execution, be *sold* by Government to make good an arrear of the public revenue due from the appellant, and shall be *purchased by the respondent,* the party so purchasing, in the event of such property being finally adjudged to him on the appeal, shall be entitled to *recover* from the appellant, so left in possession, the *full amount of his purchase-money,* and of all *expenses* attending the purchase so made by him, with interest thereon at the rate of *twelve per cent.* per annum, in addition to any other sum which may be adjudged due to him, on account of the *profits* arising from the land, or other property in question, anterior to the sale. It is further declared, that in the case above supposed, if the *respondent* shall *not* have *purchased* the land or other property sold by Government to make good an arrear of public revenue due from the appellant left in possession thereof, and if the ultimate *judgment* on the appeal be in *favour of* such *respondent,* he shall be *entitled* to recover from the appellant left in possession the amount of the *purchase-money* paid for the property so sold, and adjudged to the respondent, with *interest* thereon at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged to him, on account of the *profits* arising from the property so sold anterior to the sale of it; *unless* the property in question shall have been directly or indirectly *purchased by the appellant himself,* or in his behalf, at the public sale; in which case, on clear proof thereof being made

by the respondent to whom such property may be ultimately adjudged, he shall be entitled to the possession thereof, and to all profits arising therefrom, as may be directed by the decree in the case, notwithstanding the fictitious sale supposed.—Reg. V, 1798, Sec. iv.

The *principles* of the preceding rules are to be considered equally *applicable* to cases in which the *Plaintiff* may be put *in possession* of land or other property adjudged to him, *during an appeal*; and generally, *to all cases* in which the possession of *property* may be *transferred* by the *decree of* any Court of Justice, from which decree an *appeal* may be *depending* in a superior Court. —Reg. V. 1798, Sec. v.

EXECUTION: *Staying. Security.*

Decrees for money or other moveable property, shall be *stayed* or enforced in cases of appeal, according to the rules now established, with the following addition thereto.—Reg. XIII, 1808, Sec. xii, cl. 1.

The *security* to be given by appellants for staying the execution of decrees appealed from, in cases of money or other moveable property, or by respondents, when such decrees are carried into execution during an appeal, shall be *sufficient*, in addition to the *amount* or value adjudged, to cover the *interest* that may be expected to arise upon the amount payable under the decree, if confirmed in appeal, according to the provision for adjudging interest in such cases.—Reg. XIII, 1808, Sec. xii, cl. 2.

EXECUTION: *Sales in; N. W. P.*

In the *North-West Provinces* of the territories, subject to the presidency of Fort-William in Bengal, attachments and sales of land, or of any interest in land, in satisfaction of the decrees or other process of the Courts of Civil Judicature, shall (except in the case of land, which the Courts themselves are now by law authorized to attach and sell) be made by the *Collector*, or any of his subordinate officers under his directions, upon the requisition of such Courts.—Act IV, 1846, Sec. vi.

Every such requisition shall specify the *number* of the suit, the *Court* which made the decree, the *amount* to be realized, the *names* of the parties, distinguishing those whose land or interest it is intended to sell, and the amount for which each is liable, if they are severally liable, and the *land or interest* which each is alleged in the Schedule of the party applying for execution, to be possessed of.—Act IV, 1846, Sec. vii.

The *Collector* shall issue a *proclamation* in the current *language* of the country of any intended sale of land, or any interest therein, *thirty days at least* before the day appointed for the sale, exclusive of the day of sale, and of the day on which the proclamation is issued; and the said proclamation shall specify the *name of* the person *whose land* or whose rights and interest in certain

land are to be sold, and the *Jumma* of the estate constituting the property, or in which the property is situate; also, particulars of the *property* to be sold, of the *time and place* of sale, and of the *amount due* for the recovery of which the sale is ordered, and such proclamation shall be fixed up in some *conspicuous* place within the *village* or town in which the said land is situate, or which is nearest to the said land, and in the Cutcherries of the local *Moonsiff*, *of* the *Collector*, of the Zillah or *City Judge*, and of the *Court* from which the requisition issued.—Act IV, 1846, Sec. viii.

The provisions contained in Sec. ii, Act XXV. of 1850, shall be applicable to sales of land, or any interest in land, in execution of decrees of Court or other Judicial process.—Act IV, 1846, Sec. ix.

EXECUTION OF DECREE: *beyond Court giving it.*

Every *party* who shall have *obtained a judgment* in any Court of the East India Company, in any part of the territories under the Government of the East India Copany, or in any Court established by the authority of the Governor-General of India in Council in the territory of any foreign prince or state, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such Court, may *enforce* and obtain execution of the same *in any part of the said territories* under the Government of the East India Company, in the manner following.—Act XXXIII, 1852, Sec. i.

The party may *apply* to the *Court* which shall have *pronounced* such judgment for a *copy* thereof, and also for a *certificate* that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said Court; also for a *copy* of any order for execution of such judgment that may have been passed, and, if necessary, for a translation of the said judgment and order for execution, into the English language. The Court, unless there be any sufficient reason to the contrary, shall cause such copy, and certificate, and translation, if necessary, to be furnished, and the same shall be signed by the Judge, or one of the Judges of the Court, and sealed with the seal of the Court.—Act XXXIII, 1852, Sec. ii.

If such *Court* shall be the *Principal* Civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the *certificate*, and shall also *name* the *Court* and the *district*.—Act XXXIII, 1852, Sec. iii.

If the Court shall *not be* the *Principal* Civil Court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the *certificate* of the Judge and the *translation*, if any, shall, without delay, be *transmitted to the Principal Civil Court* of original jurisdiction

in the district; and the Judge, or one of the Judges of such Court shall issue a *certificate* under his hand and the seal of the Court, *verifying the signature* of the Judge of the Court in which the judgment shall have been given to the documents above mentioned; and in such certificate, the *Judge* signing the same shall describe himself as the Judge, or one of the Judges of the *Principal Civil Court* of the district, and shall also name the Court and the district.—Act XXXIII, 1852, Sec. iv.

All *copies, translations, and certificates* which may be furnished by or transmitted to the Principal Civil Court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such Court *without delay to the Principal Civil Court* of original jurisdiction *in the district, in which the party may wish to have the judgment enforced* or executed; and such Court shall cause the said documents to be filed therein, *without* any *proof of the judgment or order for execution*, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless the Court to which such documents shall be transmitted, shall, under any peculiar circumstances to be specified in an order, require the same.—Act XXXIII, 1852, Sec. v.

The *copy* of any judgment, or of any order for execution, when filed in the Court to which it shall be transmitted for the purpose of being executed or enforced as aforesaid, shall for such purpose have the *same effect as a judgment* or order for execution made by such Court, *and may be enforced* or executed by such Court, or any Court subordinate thereto, to which it may entrust the enforcement or execution thereof.—Act XXXIII, 1852, Sec. vi.

When application shall be *made* to any of the said Courts to enforce or execute the judgment of any other Court as aforesaid, the *Court* to which the application shall be made or referred, *shall* proceed to enforce or *execute* the same *according to its own rules and mode of procedure* in like cases; and the last-mentioned Court shall take cognizance of and punish all wrongful acts or irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or *obstructing* the enforcement or execution of any such judgment, shall be *punishable by such* last-mentioned *Court*, in the same manner as if the said judgment had been pronounced by such Court.—Act XXXIII, 1852, Sec. vii.

EXECUTION OF DECREES: *Military Courts of Requests; Stamp Appeal.*

The *decrees*, of which execution is to be general, of any *Military Courts of Requests* holden within the said territories under the Government

of the East India Company, or mentioned in Section xvii, Act No. XI, 1841 may be *enforced in* the manner, *provided by this Act. No* such *decree*, however, shall be enforced under this Act *against the person* of the debtor, if a soldier. In the case of a decree of a Military Court of Requests, the copy, decree, and certificate, and translation, if any, shall be signed by the *officer commanding* the station, or cantonment who shall describe himself accordingly; and *no proof of the decree*, or of the signature or appointment of such officer, or of the jurisdiction of the Court, shall be *necessary*, unless the Court to which the same may be presented shall think fit, under any peculiar circumstances, to be specified in an order to require the same.—Act XXXIII, 1852, Sec. viii.

EXECUTION: *of any judgment of Military Court of Requests; (or Moonsiff;) petition for; need not be on Stamp. (Sec.* ix.) *Appeal.*

An *appeal* shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the *same rules* and regulations as if the judgment had been originally given by the *Court*, making such order.—Act XXXIII, 1852, Sec. x.

GOVERNMENT: *being a party; copy of decree to go to Secy. to Govt.*

In all original suits or appeals wherein *Government* may be one of the *parties*, the Court which may pass judgment, whether for or against Government, shall, in addition to the copies of decrees required by the existing Regulations to be delivered to the parties, transmit *a copy* of the decree, as soon as the same can be prepared, to the *Secretary* to the Government in the *Judicial Department*, for the information of the Governor-General in Council. Such copies of decrees are *not* required to be upon *stamped* paper; *but* are to be duly *authenticated* by the official seal and signature of the Judges, by whom the same have been passed, and are to be accompanied with an English translation.—Reg. II, 1805, Sec. ix.

IMPRISONMENT: *release from; when; for what amounts; property.*

With a view to prevent the protracted imprisonment of persons confined in execution of decrees for *sums of inconsiderable* amount, it is provided, in addition to the foregoing rule, that *no person* shall be *liable* to personal *confinement*, in satisfaction of a decree, *for* any sum *not exceeding sixty-four rupees*, beyond a period of *six months*; but that at the expiration of that period, any person so confined shall be entitled to be released. But any *property* which may belong to such person shall, at all times, either during his imprisonment, or subsequently to his release, be *liable to attachment and sale*, for the purpose of realiz-

ing the amount of the judgment, or such part thereof as may remain due.—Reg. XXIII, 1814, Sec. xlv, cl. 7.

IMPRISONMENT: *Diet money.*

No process of *arrest* shall issue from a Civil Court, *unless* the party applying for the same and entitled thereto, shall *deposit* in Court (independent of the charge for executing the process) a *sum* sufficient to provide *for* the *subsistence* of the individual, against whom the process may issue, for a period of *thirty days*, from the date of his commitment to gaol, in execution thereof. On the expiration of *thirty days* after such commitment, a *further deposit* shall be made in advance for the *next* ensuing *thirty days*, and *so on*, till the defendant's discharge. The amount of deposit shall be fixed by the *Judge at* the time of *issuing* the process of *arrest*, subject to future revision, on sufficient grounds shown, and shall be regulated according to the rules heretofore in force; that is, the allowance is *not* to *exceed four annas, nor* to be *less* than *one anna* per diem, consideration being had to the rank and situation in life of the defendant, and the circumstances of the plaintiff. Provided, however, that if any *special circumstances* should exist for *increasing* the rate beyond four annas, it shall be competent to the Sudder Dewanny Adawlut, on *a report* from the Judge, or other sufficient information before them, to order such increase as may appear to *that Court* to be just and proper, *not exceeding* in any instance *one rupee* per diem.—Reg. VI, 1830, Sec. ii.

The allowance required under the foregoing rules, is to be made *payable* as heretofore to the *Nazir* of the Court, who is to give monthly receipts for it to the plaintiff, dated on the day on which the money may be paid. If the plaintiff shall *neglect* or refuse to pay the prescribed allowance, on or *before* the *day* on which it may become *due*, the *Nazir* is immediately to *report* the same in writing, under his signature, *to* the *Judge*, who is *forthwith* to order the defendant's *discharge;* and such defendant shall *not again* be liable to personal *arrest* and confinement on the same matter, at the instance of the same party, *unless* it be proved to the satisfaction of the *Court*, that he has been guilty of dishonest conduct in the *fraudulent* concealment or transfer of any property, that would otherwise have been available for the satisfaction of the decree or other demand, on account of which he may have been originally confined.—Reg. VI, 1830, Sec. iii.

The *amount paid* for the subsistence of persons in confinement under judgments of the Civil Courts is to be *repaid* by the party confined *on* his *release*, in common with the reimbursement of other costs of suit and process, when any property may be forthcoming from which the amount can be

levied. *Plaintiffs* are *not* to be required to *pay* any allowance to defendants who may be *committed* to custody *for disobedience* to an order of the Court. But when *no property* can be pointed out for the *reimbursement* of the subsistence money paid to prisoners, they shall *not* be *detained* in confinement *for* the repayment of *such money only* —Reg. IV, 1793, Sec. viii; and Reg. II, 1806, Sec. xii.

In the event of any *future alterations* becoming necessary in the rules relating to the subsistence-allowance of debtors, confined in the Civil gaols, it shall be competent to the Court of *Sudder* Dewanny Adawlut to *direct the same,* subject to the approval of the Governor-General in Council *without* the necessity of a *new Regulation* being passed for that purpose.—Reg. VI, 1830, Sec. v.

INSOLVENTS: *release of; rules for.*

For the relief of insolvent debtors *and* their *sureties,* who may be in confinement for the satisfaction of the decrees of the Civil Courts, and may have no means of discharging the amount demandable from them, by instalments or otherwise, the Judges of the Zillah and City Courts, and the Court of Sudder Dewanny Adawlut, are further empowered, on receiving from the person or persons confined, in such cases, a statement upon *oath* or affirmation, containing a *full* and *fair* disclosure of *all property* belonging to them, whether in lands, money, or effects, or of whatever description, and whether held in their own names or in the names of any other person, or jointly with others, to cause *inquiry* to be made, for the purpose of ascertaining the truth of such statement, or the validity of any *objections* thereto, which may be offered by the party at whose instance the prisoner or prisoners may be in confinement; and if the result of such inquiry shall satisfy the Court that the *statement of property* so delivered, is *true* and faithful, and that the persons confined possess *no other means* of discharging the amount demandable from them, and the property included in the statement, or such part thereof as the Court may deem it proper to sell in satisfaction of the judgment passed, shall be given up for *sale,* the Court, on receiving such surrender of property, may cause it to be sold in the mode prescribed by the Regulations, and *may order* the *release* of the person or persons in confinement, either with or without *hazir-zaminy* security for his or their appearance when *required.* Provided, however, that nothing in this section which is meant to grant relief in cases of *real inability and fair dealing* only, shall entitle any debtor or surety, confined under the judgment of a Civil Court, to be released, without full satisfaction of such judgment, if he shall be guilty of any fraudulent concealment of property, or shall have committed any

manifest fraud or misdemeanor which may appear to the Court, to render him an improper object of the relief intended for persons acting with good faith, and willing to surrender all the property in their possession for the benefit of their creditors. Nor shall release from confinement, in any instance, under this Section, prevent the creditor from bringing to sale (by application to the Court), in full payment of the sum adjudged due to him, any *property* which may be *subsequently* possessed by the party released; or from causing such party to be again confined until the judgment be fully satisfied, when it may appear by sufficient proof that he had fraudulently concealed any property actually belonging to, and known to have been possessed by him, either in his own name, or that of others in his behalf, at the time of his discharge. Provided further, that all proceedings held and *orders* passed by the *Judges* of the Zillah and City Courts, under the discretion vested in them by this Section, shall, on representation of the parties affected thereby, be *open to the final decision of the Sudder* Dewanny Adawlut.—Reg. II, 1806, Sec. xi.

INTEREST: *Ceded Provinces; Conquered Ditto; Cuttack; Benares.*

Ceded Provinces.

If the cause of action shall have arisen on or subsequent to the tenth day of November, (1801) one thousand eight hundred and one, the Courts are not to decree interest on any sum whatever, above the *rate* of twelve per cent. per annum.—Reg. XXXIV, 1803, Sec. iii.

Conquered Provinces.

The 30th of December, 1803, shall be the *date* to be adopted in the Zillahs of Allyghur, Agra, and the northern and southern division of the Zillah of Saharunpore; and the 16th of December, 1803, shall be the date to be adopted in the Zillah of Bundlecund, in lieu of the date specified in Sections ii, iii, and ix, Regulation XXXIV, 1803.—Reg. VIII, 1805, Sec. xxiii, cl. 2.

Cuttack.

The following rules shall be observed in the Zillah of Cuttack, including the Pergunnahs of Puttaspore, Kummardichour, and Bograe, respecting the payment of interest on money.

If the cause of action shall have arisen on or subsequently to the 14th of October, 1803, the Courts are not to decree interest on any sum whatever, above the *rate* of twelve per cent. per annum.—Reg. XIV, 1805, Sec. ix, cls. 1 and 3.

Benares.

The provisions contained in the several Sections of Regulation XV, 1793, are hereby declared to extend to the province of Benares, *from* the

commencement of the ensuing year 1807, A.C., corresponding with the 19th Poos of the Bengal year 1213, and 7th Poos of the Fussily year 1214, subject to the following modifications.—Reg. XVII, 1806, Sec. ii.

If the cause of action shall have arisen *before* the period stated in the preceding Section, the Courts of Civil Judicature are to decree whatever *rate* of interest may have been voluntarily *stipulated;* or if interest be payable in any case wherein a specific rate may not have been stipulated, according to the *law and usage of the province;* in conformity with the spirit of Section ix, Regulation VII, 1795, which directs, with respect to bills of exchange, receipts, or notes of hand, that the *custom* of the country is to be abided by, and with respect to dealings and money transactions amongst *mahajuns* and *shroffs,* that the established *customs* observed and enforced amongst them, are to be adhered to by the Courts in their inquiries and decisions.—Reg. XVII, 1806, Sec. iii.

If the cause of action shall arise *after* the period specified in Sec. ii, the Courts are not to decree any interest above the *rate* of one per cent. per mensem, or twelve per cent. per annum.—Reg. XVII, 1806, Sec. iv.

The forfeiture of interest for stipulation of a higher rate than what is authorized, enacted by Sec. v, and the *forfeiture of principal and interest,* in cases of attempts to elude the prescribed rules, by deductions from the principal or other devices, provided against by Sec. xxxi, shall *not* be considered applicable to any loans actually and *bonâ fide* contracted, or to any bonds or other instruments voluntarily given for the evidence and security of such loans, *previously* to the period stated in Sec. ii.—Reg. XVII, 1806, Sec. v.

The rules contained in Sec. x, Regulation XV, of 1793, for the redemption of mortgaged property, whenever the principal sum lent and the simple interest due thereupon shall have been realized from the *usufruct,* is to be considered in force throughout the province of Benares from the commencement of the Fussily year 1214 (1806-7); but shall *not* be applied retrospectively, in opposition to any subsisting engagement, voluntarily contracted before the period fixed for the operation of this Regulation.—Reg. XVII, 1806, Sec. vi.

INTEREST: (VIDE NEW LAW OF 1855.) *Rate; Evasion; Mortgages; Usufruct; Interest—Accounts; Insurance; Fine for litigious appeals.*

If the cause of action shall have arisen on or after the first day of January, one thousand seven hundred and ninety-three, the Courts are not to decree any interest on any sum whatever, above the rate of *twelve per cent.* per annum.—Reg. XV, 1793, Sec. iv.

Upon all debts or *sums certain*, payable at a certain time or otherwise, the *Court* before which such debts or sums may be recovered, may, if it shall think fit, *allow interest* to the creditor at a rate not exceeding the *current rate of interest* from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some *written instrument* at a certain time, or if payable otherwise, then *from* the time when *demand of payment* shall have been made in *writing*, so as such demand shall give *notice* to the debtor that *interest will be claimed* from the date of such demand until the term of payment; provided, that interest shall be payable in all cases in which it is now payable by law.—Act XXXII, 1839.

Where a *lower* rate of *interest* than the authorized rates may have been *stipulated* between the parties, no higher rate of interest than the rates so stipulated is to be decreed.—Reg. XV, 1793, Sec. v; Reg. XXXIV, 1803, Sec. iv.

If the interest on any debt, calculating according to the rates allowed by this Regulation, shall have accumulated so as to *exceed the principal*, the Courts are not, in any case whatever (excepting the cases specified in Sec. xii. p. 91), to decree a greater sum for interest than the amount of such principal.—Reg. XV, 1793, Sec. vi; Reg. XXXIV, 1803, Sec. v.

The Courts are not to decree any *compound interest* arising from intermediate adjustments of accounts. This rule, however, is not to extend to cases in which accounts between the parties shall have been adjusted, and the former bonds or agreements cancelled, and new bonds or agreements taken for the aggregate amount of the principal, and the legal interest remaining due upon the adjustment, consolidated into principal.—Reg. XV, 1793, Sec. vii; Reg. XXXIV, 1803, Sec. vi.

The Courts are not to decree any *interest* whatever, in any case, where the bond or instrument given for the security and evidence of the debt shall have been granted on or *subsequent to* the following *dates*, and shall specify a *higher rate* of interest than is authorized by this Regulation to have been given and received, subsequent to these dates,

Lower Provinces, 28th March, 1780;
Cuttack, 14th October, 1803;
Ceded Provinces, 1st January, 1804;
Conquered Provinces, 1st January, 1806;
Benares, 1st January, 1807.
—Reg. XV, 1793, Sec. viii; Reg. XXXIV, 1803, Sec. vii; Reg. XII, 1805, Sec. ix, cl. 4; Reg. VIII, 1805, Sec. xxiii, cl. 2; Reg. XVII, 1806, Secs. ii and iv.

Nor to decree any interest whatsoever in favour of the plaintiff, in any case where the

cause of action shall have arisen on or subsequent to the dates specified in the preceding Section, where a greater interest than is authorized by this Regulation shall have been received, or stipulated to be received, if it be proved that any attempt has been made to *elude the rules* prescribed in *it, by any deduction from the loan, or by any device or means whatever;* nor to give any other judgment, but for the *dismission* of the *suit, with costs* to be paid by the plaintiff.—Reg. XV, 1793, Sec. ix; Reg. XXXIV, 1803, Sec. viii; Reg. XIV, 1805, Sec. ix, cl. 5.

In cases of *mortgages* of real property, executed prior to the dates specified above, in which the mortgagee may have had the *usufruct of the* mortgaged property, whether he shall have held it in his own possession or not, the *usufruct is* to be allowed to the mortgagee in lieu of interest, agreeable to the former custom of the country (provided it shall have been so *stipulated* between the parties), until the above-mentioned dates, subsequent to which, the *same interest* is to be allowed on such mortgage bonds, and also on all bonds, for the mortgage of real property, which have been entered into on or since those dates, or that may be hereafter executed, as is allowed on other bonds which have been, or may be granted on or posterior to such dates, and no more; and all such mortgages are to be considered as virtually and in effect cancelled and *redeemed,* whenever the *principal* sum, with the *simple interest* due upon it, shall have been *realized* from the usufruct of the mortgaged property, subsequent to the dates specified above, or otherwise liquidated by the mortgagor.—Reg. XV, 1793, Sec. x; Reg. XXXIV, 1803, Sec. ix; Reg. XIV, 1805, Sec. ix, cl. 6.

For the adjustment of the accounts, in the cases of mortgages specified in the preceding Section, where the mortgagee shall have had the usufruct of the mortgaged property, the *mortgagee* is to be required to deliver in the *accounts* of his gross receipts from the property mortgaged, and also of his expenditures for the management or preservation of it. The mortgagee is to swear, or to subscribe a solemn declaration that the accounts which he may deliver in are true and authentic. The mortgagor is to be permitted to examine the accounts, and after hearing any objections he may have to offer, or any evidence that either party may have to adduce respecting them, the *Court* is to *adjust the account.* —Reg. XV, 1793, Sec. xi; Reg. XXXIV, 1803, Sec. x.

The rules contained in the preceding Sections are not to be considered to extend to respondentia loans or policies of insurance, the *interest* on which is to be regulated *by the terms of the deeds,* and the laws and usages which pre-

vail respecting such transactions.—Reg. XV, 1793, Sec. xii; Reg. XXXIV, 1803, Sec. xi.

To prevent the encouragement of *litigious appeals*, the Courts of appeal, in all cases wherein they may confirm the decree of a lower Court, are to adjudge interest, at the rate of *one per cent. per mensem*, on all sums receivable by the respondent under the decree passed in his favour, *from the date of such decree*, and are authorized to punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party and the circumstances of the case.—Reg. XIII, 1796, Sec. iii.

JOINT UNDIVIDED ESTATES: *Manager of Sale; Credits of Revenue; Minors.*

The *proprietors* of joint and undivided estates shall in future be left to *manage* their estates in such manner as they may think most advisable, under the general Regulations, without any interference on the part of the Collector or the Board of Revenue, in the appointment of a *Manager* for the collection of the revenues of the lands from the tenants, farmers and others,—Reg. XVII, 1805, Sec. ii.

The *estates* of joint proprietors will of course be *liable to be sold*, as at present, for the recovery of any *arrears* which may at any time become *due* therefrom *to Government*, and the *proprietors* themselves shall be considered *jointly and severally* responsible for the payment of the public revenue assessed upon such estates, should it at any time be necessary to have recourse to a sale of the separate property of any individual sharers, or to the confinement of their persons for the recovery of the arrears due from their estates to Government.—Reg. XVII, 1805, Sec. iii.

The *payments* of Revenue shall be carried to *the account of the estate* at large, and not to the account of any individual proprietor.—Reg. XVII, 1805, Sec. iv.

In cases in which one or more of the proprietors of a joint undivided estate may be *minors*, or may be otherwise *disqualified* for the management of their own concerns, in consequence of natural defects or infirmities, the *guardians* of such persons, whether nominated by the will of their parents, or by the Zillah Judges, under Regulation I, 1800, shall superintend the interests of such disqualified persons, and shall exercise the same powers in the management of the estate of their Wards as could be exercised by the proprietors themselves, were they qualified for the direction of their own affairs.—Reg. XVII, 1805, Sec. v.

JUDGES, ADDITIONAL, *Appointment and powers of.*

When the number of Civil causes depending before the Judge of any Zillah or City Court may be such, as to require the aid and appointment

of Additional Judges for the speedy investigation and decision of such causes, the Governor-General in Council, at the recommendation of the Court of Sudder Dewanny Adawlut, or otherwise, if it shall appear to him expedient, will appoint *any number* of Additional Judges for the Zillah or City wherein it may be requisite, to be denominated "Additional Judges of such Zillah or City," who, previously to entering upon the execution of the duties of his office, shall take and subscribe the *same oath* as is directed to be taken and subscribed by the *Judges* of the Zillah and City Courts.—Reg. VIII, 1833, Sec. II, cl 1.

The Additional Judges so appointed are empowered to *perform any part of the duties* of the Judge of the Zillah or City to which they may be appointed, or that the Governor-General in Council may assign to them: and such Additional Judges, in the performance of those duties, will exercise the same powers, and be guided by the *same rules and regulations in* every respect, as the Zillah or City Judge.—Reg VIII, 1833, Sec. II, cl. 2.

JUDGE'S COURTS, *Place and times of; Seal of; Oath of.*

The Zillah and City Courts are to be held in a *large and convenient room* in the city or place at which they are respectively established, *three days in every week*, or oftener if the state of the business shall render it necessary. Whenever the Judge of a Zillah or City Court, from indisposition or other cause, shall be *prevented* holding a Court three days in each week, as above required, he is, at the expiration of the week, to *report* the cause of the Court not being so held to the Sudder Dewanny Adawlut. This report is not to be made when the Court may be shut pursuant to orders from the Sudder Dewanny Adawlut. *No* rule, *order*, proceeding, or decree is to be made, *but on Court days, and in open Court.*—Reg. III, 1793, Sec. v.

The Zillah and City Courts are to use a *circular seal*, one inch and three-quarters in diameter. The seals of the Zillah and City Courts are to bear an *inscription* to the following effect, "The seal of the Dewanny Adawlut of the Zillah (or City) of . . .." The seal of each Court is to remain in the custody of the Judge.—Reg. III, 1793, Sec. VI.

Each Zillah and City *Court* is to be superintended by *one Judge*, who, previous to entering upon the execution of the duties of his office, is to take and subscribe the following *oath* before any person whom the Governor-General in Council may commission to administer it.

"I, A. B., appointed Judge of the Dewanny Adawlut of the Zillah (or City) of ———, solemnly swear, that I will administer justice, conformably to the Regulations that have been or may be passed by the Governor-General in Council, to the best of my *ability, know-*

ledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any *present* or nuzzur, in, money or effects of any kind from any party or persons whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court of which I am appointed Judge; that I will *not* knowingly *permit* any person or persons under my authority, or in my immediate service, *to receive*, directly or indirectly, any *present* or nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court; that I will render a true and faithful account of all sums of money that may be paid into the Court, or disbursed from it; that I will not be concerned, directly, or indirecly in the purchase of any goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe, nor in any *commercial transactions;* and that I will not derive, directly or indirectly, any *emoluments* or advantages from my station, excepting such as the orders of Government do or may authorize me to receive: So help me God."—Reg. III, 1793, Sec. iii; Reg. III. 1829, Sec. iii.

JUDGE *of: Zillah. Primary jurisdiction of.*

Into whatever Zillah or City the provisions of Regulation V, 1831, have been introduced, the Judge of the Zillah or City Court shall have primary jurisdiction in all suits in which the value or amount of the claim may *exceed five thousand rupees.* —Reg V, 1831, Sec. xxvii, cl. 3.

No person whatever shall, by reason of place of birth, or by reason of descent, be, in any *Civil* proceeding whatever, *excepted* from the jurisdiction of the Zillah or City Courts.—Act XI, 1836, Sec. ii.

JUDGE; *of Zillah; Civil; not to interfere with Criminal Courts.*

The Zillah and City Courts are *prohibited interfering,* in any respect, in any *cause* or matter of a *criminal nature,* declared cognizable by the Magistrates of the several Zillahs and Cities; the Sessions Courts; or the Nizamut Adawlut; or any other Courts for the trial of cases of a criminal nature, that now exist, or which may be hereafter established; *excepting* for contempt and perjuries committed in open Court, as prescribed in the Regulations and Acts in force.—Reg. III, 1793, Sec xviii.

JUDGE, *Zillah and City: Special jurisdiction of.*

The special jurisdiction of the Zillah *Courts* is to extend throughout the *districts* and places, that are or may be included in the Zillahs in which they are respectively established. The special jurisdiction of the *Courts* of Dewanny Adawlut for the *Cities,* is to extend over those cities and the places adjacent, which are

or may be included in the *limits of* their respective *jurisdictions*.—Reg. III, 1793, Sec. iv.

The Zillah and City Courts respectively are empowered to take cognizance of all suits and complaints respecting the succession or right to *real or personal property, land-rents, revenues, debts,* accounts, *contracts, partnerships, marriage, caste, claims to damages* for injuries, and generally of *all suits* and complaints of a *Civil* nature, provided the landed or other real *property* to which the suit or complaint may relate shall be *situated*, or in all other cases the *cause of action* shall have arisen, or the *defendant* at the time when the suit may be commenced shall *reside*, as a fixed inhabitant, within the limits of the Zillah or district over which their jurisdiction may extend.—Reg. III, 1793, Sec. viii.

Collectors of the Revenue and their Assistants, and native officers, Salt agents and their Assistants and native officers concerned in the manufacture of salt, the Collectors of the Customs and their assistants and native officers employed in the collection of the customs, the Mint and Assay masters and their Assistants, and native officers, are declared amenable to the Zillah or City Court in the jurisdiction of which they may reside or carry on the public business committed to their charge, for any acts done in their *official capacity*, in opposition to any Regulation —Reg. III, 1793, Sec. x.

JUDGMENT: *as to Religion of parties. Moonsiffs.*

The provisions of Act XXI, 1850, respecting the law to be administered, with reference to the *religion of the parties* are to apply to *Moonsiffs*.—Act XXVI, 1852, Sec. iii.

JUDGMENT: *To state grounds. What to contain.*

The Judges are to insert in their decrees the *names* of the *witnesses* whose depositions may have been taken, the *title* of every *exhibit* read in the cause, and the *amount* of the annual *produce* of the land, or the sum of money, or the *value* of the property or thing decreed. The decree is to be sealed with the *seal* of the Court, and signed by the Judge, and *dated* on the day on which it may be passed. They are likewise to insert in their decrees all sums paid or payable by the parties under the Regulations, on account of *fees* or *stamp-duties*, as well as on account of *compensation* for the expense of witnesses, and of *subsistence* money to peons, employed in serving the processes of the Courts, and of all other costs and expenses of the suit. Such *costs and expenses* shall be ultimately charged to the parties cast, or to the parties respectively, in such proportions as the Court may deem equitable.—Reg. IV, 1793, Sec. xxvi; Reg. XXVII, 1814, Sec. xxvii.

JUDGMENT: *What of it to be written in English.*

So much of all decrees as consists of the *points to be*

decided, the *decision* thereon, and the *reasons for the decision*, and all injunctions for the *revision* of decrees in *regular suits*, and all orders for *reviews* of judgment, which shall be passed by the Judges of the Sudder Courts, or by Judges of Zillah and City Courts, or by Subordinate or Assistant Judges of Zillahs, shall be written originally *in English*, and *signed* by the Judge or Judges *at the time of pronouncing* such decision and orders; and shall be *translated* into the Vernacular language, commonly used in the Court wherein the suit to which the decree or order relates, shall have been instituted; and the translation shall be incorporated in the decree. —Act XII, 1843, Sec 1 This by Sec. III is *extended* to P. S A.'s, to S. A.'s and Moonsiffs. What *English* Judges write in English, they are to write in their *Vernacular* tongues. If their Vernacular is not the Vernacular of the Court, of the district, translations are to be incorporated into the decree.

JUDGMENT: *To state grounds.*

The Judges are *invariably* to state in every decree the grounds on which they pass it —Reg III, 1793, Sec. XX.

JUDGMENT AND COSTS: *Declaration of. After trial*

When the parties or their Vakeels have been *heard* and the witnesses on both sides examined, and the exhibits received and *considered*, the Judge is to give judgment *according* to *justice and right*, and is to order the *costs* to be paid to the party in whose favour the decree may be made. —Reg. IV, 1793, Sec. VII

JURISDICTION: *Calcutta and 24-Pergunnahs. Execution.*

If the *defendant* in a suit decided by the Court of Requests for the town of Calcutta, the plaintiff in which shall have obtained a judgment, shall *retire*, before execution of the same, *into* the jurisdiction of the Judge of the Zillah of the *Twenty-four Pergunnahs*, the Judge of the said Court, upon receiving a written application from the said plaintiff, either in person or by Vakeel, setting forth the above circumstances, and accompanied by a *copy of the judgment* duly authenticated is hereby authorised and directed to proceed to execute the said judgment in the mode prescribed by the existing Regulations for executing *his own decrees* —Reg. XVI, 1812, Sec II, cl. 1.

Provided always, that if the defendant in such case shall allege any cause against the execution of the judgment, which shall appear to the Judge to require the determination of the Commissioners of the Court of Requests, the Judge shall, upon such defendant entering into sufficient *security* to satisfy the judgment, if the Judge should deem this precaution necessary, allow the said defendant a *reasonable period* to apply to the said Commissioners, upon the expiration of which, unless the said defendant should produce an order properly authenticated

from the said Commissioners, certifying that the judgment ought not to be put into execution, the Judge shall forthwith proceed to execute the judgment as prescribed in the preceding Section.—Reg. XVI, 1812, Sec. ii, cl. 2.

Provided further, that no defendant who shall have been confined in the gaol of the said Commissioners, and shall have been liberated under the rules established for the guidance of the said Commissioners by the Governor-General in Council, on the 11th February, 1805, in consequence of having received *diet money* for a given period, shall again be confined by the Judge of the Zillah of the Twenty-four Pergunnahs in execution of the same judgment; but that, in all such cases, execution shall proceed against the property only of the defendant.—Reg. XVI, 1812, Sec. ii, cl. 3.

If the defendant in any suit decided by any Court of Justice of the Zillah of the Twenty-four Pergunnahs, the plaintiff in which shall have obtained a decree, shall retire before execution of the same into the jurisdiction of the *Court of Requests*, that Court, upon receiving a *written application* from the Judge of Dewanny Adawlut to the Zillah of the *Twenty-four Pergunnahs*, setting forth the above circumstances, and accompanied by a copy of the decree duly authenticated, is hereby authorised and directed to *proceed* to execute the said decree *in the mode* prescribed *for* the execution of judgments obtained in the *Court of Requests*, and on payment of the like costs as are demanded for the execution of such judgments in ordinary cases: *Provided* always, that nothing in this Act contained shall be held to authorise the said Court of Requests, to execute any decree except the cause of action in respect of which such decree was obtained were such that, if it had occurred within the local jurisdiction of the said Court, it would have been *cognizable* by the same.—Act XXVII, 1839.

JURIES;

The Governor-General in Council is declared competent to grant the powers specified in the following Section to any European officer presiding in a Court for the administration of Civil Justice, such *powers* to be exercised either in any particular suit, in any specified district, or generally by such officer, in any suits that may come before him, and in any part of the country where he may be employed; provided that it shall always be competent to the Governor-General in Council to revoke and annul the grant of such powers whenever he may see sufficient cause for so doing.—Reg. VI, 1832, Sec. ii.

In the trial of Civil Suits, original or appealed, it shall be competent to every Court in which an European officer thus empowered presides, to avail itself of the assistance of *re-*

spectable natives in either of the *three* following *ways*.—Reg. VI, 1822, Sec. iii, cl. 1.

First, by referring the suit, or any point or points in the same, to a *punchayet* of such persons, who will carry on their *inquiries apart* from the Court, and *report* to it the *result*. The reference to the punchayet and it's answer shall be in *writing*, and shall be filed in the suit.—Reg. VI, 1832, Sec. iii, cl. 2.

Or, secondly, by constituting two or more such persons *assessors* or members of the Court, with a view to the advantages derivable from their *observations*, particularly in the *examination of witnesses*. The *opinion* of each assessor shall be *given separately* and discussed; and if any of the assessors, or the authority presiding in the Court, shall desire it, the opinions of the assessors shall be recorded in writing in the suit.—Reg. VI, 1832, Sec. iii, cl. 3.

Or, thirdly, by employing them more nearly as a *jury*. They will then attend during the trial of the suit, will *suggest*, as it proceeds, such points of *inquiry* as occur to them; the Court, if no objection exists, using every endeavour to procure the required information, and after consultation, will deliver in their *verdict*. The mode of selecting the jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the Judge who presides.—Reg.] VI, 1832, Sec. iii, cl. 4.

It is clearly to be understood that, under all the modes of procedure described in the three preceding Clauses, the *decision* is vested *exclusively in the authority presiding* in the Court.—Reg. VI, 1832, Sec. iii, cl. 5.

LAW; *where none; to act by Justice, Equity and Good Conscience.*

In cases for which no specific rule may exist, the Judges are to act according to *Justice, equity and good conscience*.—Reg. III, 1793, Sec. xxi.

LIMITATION; *Civil actions.*

The Zillah and City Courts are prohibited hearing, trying, or determining the merits of any suit whatever, against any person or persons, if the *cause of action* shall have arisen *previous to the* 12th of August, 1765; or any suit whatever against any person or persons, if the cause of action shall have arisen *twelve years before any suit* shall have been commenced on account of it; *unless* the complainant can show, by clear and positive proof, that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money; or that he directly preferred his claim within that period, for the matters in dispute, to a Court of competent jurisdiction to try the demand, and shall assign *satisfactory reasons* to the Court why he *did not proceed in* the suit; or shall prove that

either from *minority* or other good and sufficient cause, he had been precluded from obtaining redress.—Reg. III, 1793, Sec. xiv.

LIMITATION; *Special, as to Land Revenue and public rights.*

The *limitation of twelve years* for the commencement of Civil suits, shall *not* be considered applicable to any suits for the recovery of the *public revenue, or* for any *public right* or claim whatever, which may be instituted by or in behalf of Government with the sanction of the Governor-General in Council, or by direction of any public officer or officers who may be duly authorized to prosecute the same on the part of Government.—Reg. II, 1805, Sec. ii, cl. i.

All claims on the part of Government, whether for the assessment of *land held exempt from the public revenue without* legal and sufficient *title* to such exemption, or for the recovery of arrears of the public assessment, or for any other public right whatever (the judicial cognizance of which may not have been otherwise limited by some special rule or provision in force), shall be heard, tried, and determined in the several Courts of Civil Justice to which the cognizance thereof may properly belong, under the general Regulations which have been or may be hereafter enacted, if the same be regularly and duly preferred at any time within the period of *sixty years* from and after the origin of the cause of action: *Provided that such cause of action* shall not have originated within the provinces of Bengal, Behar, and Orissa, before the 12th August, A.C. 1765, or within the province of Benares, before the 1st July, A.C, 1775, or within the provinces ceded by the Nawaub Vizier, before the 10th November, A.C. 1801, or within the provinces constituting the Zillah of Allyghur, or within the northern and southern divisions of the Zillah of Saharunpore, or within the Zillah of Agra, before the 30th December, 1803, or within the Zillah of Cuttack before the 14th October, 1803, being the periods of the *Company's accession* to the Civil Government of the above provinces respectively.—Reg. II, 1805, Sec. ii, cl. 2; Reg. VIII, 1805, Sec. vi, cl. 2; Reg. XIV, 1805, Sec. v.

LIMITATION; *Fraud; Violence; &c.*

The limitation of *twelve years* shall also not be considered *applicable to any private claims* of right *to* lands, houses, or other *permanent immoveable property*, if the person or persons in possession of such property, *when* the claim of right thereto may be preferred in a competent Court of Judicature, shall have acquired *possession* thereof by *violence, fraud, or by any other unjust, dishonest means whatever;* or if such property shall have been so acquired by any other person or persons from whom the actual occupant or occupants may have derived his or their title, *and* shall *not* have been subse-

quently held under a just and honest title (such as inheritance, purchase, fair donation, or any other fair title believed to have conveyed a right of possession and property), during a period of *twelve years antecedent* to the time of preferring a claim of right thereto in a competent Court: *Provided* that such violent, fraudulent, unjust, or dishonest acquisition, be established to the satisfaction of the Court in which the claim may be preferred: or if the suit be appealable, to the satisfaction of the proper Court of Appeal.—Reg. II, 1805, Sec. iii, cl. 1.

In all such cases, viz. when the original cause of action may have arisen more than twelve years before the institution of the suit, and the claim may not be cognizable under the exceptions and provisions contained in the Regulations, but may be nevertheless cognizable under the provision made by the preceding clause, from the defendant's having acquired possession of the claimed property by violence, fraud, or other unjust and dishonest means, or from the property, after being so acquired by any other person, *not* having been *subsequently held* by the present occupant and his predecessors, under a just and honest title during the prescribed period of twelve years, the *plaintiff shall set forth* the same distinctly, either *in his petition of plaint, or in his replication.*. The Court, after taking the answer and rejoinder of the defendant, shall, if the alleged unjust and dishonest acquisition be denied by the defendant, examine any evidence that may be adduced by the plaintiff in proof of his allegation, as well as any evidence that may be brought by the defendant to prove his just and honest acquisition of the property claimed, or the just and honest possession thereof by himself and his predecessors during more than twelve years, after which the Court shall determine whether the suit in question be cognizable under the present rule and section or otherwise; and if such determination be in favour of the plaintiff, or, in appealed cases, if a determination for the cognizance of the suit be passed by the Court of Appeal, the merits of the plaintiff's claim of right *shall be heard*, tried, and determined, notwithstanding the lapse of time, in like manner as if the claim had been regularly preferred within twelve years after the origin of the cause of action.—Reg. II, 1805, Sec. iii, cl. 2.

LIMITATION; *Sixty years prescription.*

Provided, that *nothing* in the preceding Section, or in any part of the existing Regulations shall be held to *authorize the cognizance* of *any suit* whatever in any Court of Justice, if *the cause of action shall have arisen sixty years* before the institution of such suit; nor shall any plea on the part of the plaintiff for the non-prosecution of his claim of right during a period of sixty years after the origin

of his alleged cause of action, nor any original defect of title on the part of the possessor of the property claimed after the lapse of such period, be deemed a sufficient ground for taking judicial cognizance of any suit so preferred. Moreover, *although* the property claimed may have been acquired *by an insufficient title* within the period of *sixty years*, hereby fixed as the *utmost limit* for the cognizance of any claims in the established Courts of Justice, if the property so acquired shall have descended *by inheritance* to the person in possession, when the claim thereto may be preferred after a lapse of *twelve years*, or if such person shall have obtained just and honest possession thereof by purchase, fair donation, or by any other title believed to be just and valid, and *not* appearing to be in any respect *collusive*, for the purpose of depriving the plaintiff of his right, and either such occupant himself, or any other person in his behalf, or from whom the property may have been obtained under any of the titles aforesaid, or the whole in succession shall have held quiet and unmolested possession, under a title believed to be just and valid, during a period of *twelve years* antecedent to the time of a claim thereto being preferred in a competent Court, the provisions above made shall *not* be considered *applicable* to any private claims to property so circumstanced, which are therefore to be deemed inadmissible, as heretofore, after twelve years from the origin of the cause of action, unless the same be cognizable under the exceptions and provisions already in force.—Reg. II, 1805, Sec. iii, cl. 3.

LIMITATION; *As to penal damages.*

All suits and complaints for *penal damages* (viz. for pecuniary penalties on account of any act or omission, in opposition to the laws and regulations, exclusive of a compensation for actual losses), in cases wherein such damages are allowed by the Regulations to individuals, and for the recovery of which by judicial process no specific period may have been fixed, are also required to be preferred to the proper Courts of Justice within *one year after the cause of action* shall have arisen, or as soon afterwards as it may be in the power of the party aggrieved to prefer the same; and no such suit or complaint shall be received and proceeded upon in any Court of Justice, after the expiration of one year from the time when the alleged cause of action may have arisen, without *good and sufficient cause* being assigned, why the same has not been judicially prosecuted at an earlier period. Provided, that this *restriction* be understood to be strictly applicable to claims *to penal damages only* (as above described), and be *not* considered applicable to any suits for the *recovery* of the property, or for the *value* of property appertaining to the plaintiff; *or* for

a compensation or indemnification on account of any *damage to*, or *loss of*, *property* actually sustained by the plaintiff; in all which cases the general rules of limitation are to be applied, as in other suits of individuals for the recovery of their rights in the Civil Courts.—Reg. II, 1805, Sec. vii.

LIMITATION: *As to Mortgage rights.*

Provided further, that *no length of time* shall be considered to establish a prescriptive right of property, or to bar the cognizance of a suit for the recovery of property, in cases of *mortgage or deposit*, wherein the occupant of the land or other property may have acquired, or held possession thereof as mortgagee, or depository only, *without any proprietary right*; nor in any other case whatever, wherein the possession of the actual occupant, or of those from whom his occupancy may have been derived, shall not have been under a title, *bonâ-fide* believed to have conveyed a right of property to the possessor.—Reg. II, 1805, Sec. iii, cl. 4.

LIMITATION: *for Breach of laws of Separate Revenue.*

All suits, complaints, and informations, cognizable by the Civil Courts of Judicature, for the recovery of any *fine or penalty* receivable by Government or by the informer, on account of the unlicensed manufacture or sale of intoxicating *Liquors or Drugs*, the illicit manufacture or sale of *Salt* or *Opium*, the fraudulent evasion of the *Stamp* duties prescribed by the Regulations, or on account of any other fines or penalties recoverable, either by a regular suit or by summary process, in the Courts of Dewanny Adawlut, under any Regulation in force, which may not have fixed a specific period for the recovery thereof, shall be preferred to the proper Courts, in such manner as the Regulations require, *within one year*, after the act for which the fine or penalty may be demandable shall have been committed; and no such suit, complaint, or information (not otherwise specially provided for), shall be admitted and proceeded upon in any *Court of Justice*, after the period prescribed, *unless* the same be prosecuted *on the part of Government*, and *good and sufficient cause* be assigned, why it has not been brought forward to judicial cognizance within one year after the commission of the act, whereupon the fine or penalty sued for is demandable.—Reg. II, 1805, Sec. vi.

MOONSIFFS: *who eligible; See "Uncovenanted."*

The *selection and number* of Moonsiffs shall be regulated in such manner as the *Governor-General in* Council may be pleased to *direct*, and *no person* by reason of *birth* or *descent*, or of *class, or of religious persuasion, shall be incapable* of being a Moonsiff; and every Moonsiff, being a British born subject of the Queen, or a descendant of such British born subject, shall, in respect of all

Acts done by him as such Moonsiff, be liable to the same proceedings, and shall be amenable to the Jurisdiction of the same tribunals, as if he were not of British birth or descent.—Reg. V, 1831, Secs. iii and xiii; Act VIII, 1836.

MOONSIFFS; *Oath; Deed of appointment; Copy to be affixed in Court House.*

Every person who may in future be appointed to the Office of Moonsiff will be furnished by the Judge with a *sunnud*, and previously to entering upon the duties of his Office, he shall make and subscribe a *solemn declaration* according to the following form:

"I, A. B., appointed to the Office of Moonsiff of ———, do solemnly declare, that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my Office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance; and I will in all respects, truly and faithfully execute the trust reposed in me."—Reg. XXIII, 1814, Sec. xi; Reg. XVIII, 1817, Sec. ii.

Whenever a *sunnud* may be granted to a Moonsiff under the preceding rule, a *copy* of it, under the *official seal and signature of the Judge*, shall also be delivered to him, in order that it may *remain permanently affixed in some conspicuous place* in his Cutcherry.—Reg. XXIII, 1814, Sec. xii.

MOONSIFF; *Pay of.*

The Moonsiff shall, in lieu of fees and other compensation, receive from Government such *monthly allowances* as may be fixed by the order of the Governor-General in Council.—Reg. V, 1831, Sec. xii, cl. 2.

MOONSIFF; *Succession to office of; (and Sudder Ameen.)*

Upon the death, *removal*, or resignation of any Sudder Ameen or Moonsiff, the Zillah *Judge* shall, if necessary, immediately *nominate* another person in his room, and shall cause all *papers* in the causes depending before the late Sudder Ameen or Moonsiff to be delivered over *to his successor*, or otherwise to be disposed of as circumstances may require.—Reg. XXIII, 1814, Secs. xlviii and lxxiii.

MOONSIFFS; *Rules for trials; by:*

All laws and rules now *in force*, relating to the mode of procedure in the trial and decision of original Civil suits in the Courts *of the Judges* and *Principal Sudder Ameens shall* also *apply* to and regulate the mode of procedure in the trial and decision of original Civil suits in the Courts of

the *Sudder Ameens and Moonsiff*.—Act XXVI, 1852, Sec. ii.

Moonsiffs are *themselves to investigate* the suits cognizable by them, in a *public Cutcherry* or Court room, and are *not* to allow their officers, servants, or *dependants*, or any other person, *to interfere* therein.—Reg. XXIII, 1814, Sec. xiv.

The Moonsiffs are to try the suits depending before them, by *hearing the pleadings* of the parties, by *examining their documents*, and by taking the *depositions* of their witnesses, in the *presence of* the *parties or* of their *Vakeels* duly constituted. They may also examine the truth of the claim by the *oaths* or affirmations *of the parties, if* they mutually consent to that mode of examination.—Reg. XXIII, 1814, Sec. xxviii; (See Act XIX, of 1853. "*Evidence.*")

It shall be the duty of the Moonsiff or Sudder Ameen to *restrain* and *discourage*, as much as possible, the insertion in the plaint of *irrelevant matter*, and of terms of abuse and reproach against the character of the defendants or others. The *plaint* shall be *signed* and *numbered*, and dated in the *order* in which it may be received by the Moonsiff or Sudder Ameen, and the number of the suit, the names of the parties, the date on which the petition is received, the amount claimed, and the subject-matter of the suit, shall be carefully *entered, in a book* to be kept by the Moonsiff or Sudder Ameen. With a view to ascertain that the *Register-books* are *regularly* kept, and that depending suits are brought to a hearing *according to* their *order* on the file, the Zillah and City *Judges* are respectively required to *inspect* them once at least in each year, and for this purpose shall require the several Moonsiffs or Sudder Ameens to transmit them to the Court either during the period of the Dussera or Mohurrem vacation as may be most convenient.—Reg. XXIII, 1814, Secs. xviii and lxxiii.

The Moonsiffs and Sudder Ameens shall *try all suits* depending before them *in the order* in which they have been *filed or numbered; provided*, however, that the Zillah or City *Judge* be at all times *authorized*, either upon a *report* from the Moonsiff or Sudder Ameen, or upon other grounds of information, *to direct* the Moonsiff or Sudder Ameen, to bring any particular suit or suits to a hearing and determination, *without* attending to the *regular order* of the file.—Reg. XXIII, 1814, Secs. xxvi and lxxiii.

In the *examination of witnesses*, the Moonsiffs are enjoined carefully to *prevent* the parties and their Vakeels or agents from *instructing or intimidating* the witnesses, or from putting to them *leading questions*, or questions suggesting a particular answer: questions, also, with regard to the personal character of the parties, or on points evidently *irrelevant* to the matter in dispute, are to be

avoided as much as possible.—Reg. XXIII, 1814, Sec. xxxvi.

The Moonsiffs and Sudder Ameens are strictly *prohibited from confining* or otherwise punishing *witnesses;* and they are enjoined to take the *depositions* of witnesses attending before them with all due *expedition*, so that they may not be exposed to any vexatious delay or unnecessary detention from their respective homes and employments.—Reg. XXIII, 1814, Secs. xxxiii and lxxiii.

NOTE.—This Section is repealed, as far as it is inconsistent with Act XIX, 1853, by Sec. ii. of that Act. V. *"Evidence."*

No fees shall be levied *on exhibits* filed before the Moonsiffs and Sudder Ameens; and *exhibits* shall be received in suits depending before those officers respectively, *without* any Derkhast or *written application* for that purpose.—Reg. XXIII, 1814, Sec. xxxviii, cl. 1, and Sec. lxxiii.

When an *exhibit* is filed in a suit before the Moonsiff or Sudder Ameen, it shall be *dated* and *signed or sealed* by him, and shall be *marked* with some letter or number to identify it, and such letter or number shall be distinctly referred to, in those parts of the depositions of the witnesses, or of the proceedings, or of the decree, as may allude to such exhibit.—Reg. XXIII, 1814, Sec. xxxviii, cl. 3, and Sec. lxxiii.

MOONSIFF; *Jurisdiction; Evidence.*

If any Moonsiff shall require the *evidence* of a *person not within* his *local jurisdiction*, and such person shall not attend at the requisition of the parties, the Moonsiff shall *issue* the necessary *process*, for procuring the attendance of such person, and send the same to the Moonsiff within whose local jurisdiction such person is, who shall indorse such process and cause it to be duly served and executed.—Act XVII, 1845, Sec. ii.

All powers now exercised *by Zillah Judges* for enforcing the attendance of any person upon whom a summons to appear as a *witness* has been duly served, and who has failed to attend in their Courts, shall be exercised by *Moonsiffs for enforcing* the attendance of any person upon whom a summons to appear as a witness has been duly served, and who has failed to attend in their Courts. Provided that all orders passed by Moonsiffs shall be *subject to an appeal* to the *Zillah or City Judge*, whose decision thereon shall be final.

MOONSIFF; *Local jurisdiction of; Thannahs; Designation.*

The local jurisdiction of Moonsiffs shall be so arranged as to correspond with those of the *Thannahs*, or local Police jurisdictions, and shall have the same local denomination as that of the corresponding Police jurisdiction.—Reg. XXIII, 1814, Sec. vi, cls. 1 and 2.

The Sudder Courts are empowered to *include* two or more entire Police jurisdictions·

within that of one Moonsiff, and to *abolish* any of those Officers whenever local or special circumstances may, in their judgment, render it expedient. They are further at all times authorised to cause the Cutcherry of a Moonsiff to be *removed* from the town or village in which it may be held, to any other town or village within the limits of the same Moonsiff's jurisdiction which may appear more convenient.—Reg. XXIII, 1814, Sec. vii. —Act XVII, 1845, Sec. iii.

MOONSIFF'S *Jurisdiction includes all classes; Paupers.*

No person whatever shall, by reason of place of birth, or by reason of descent, be, in any Civil proceeding whatever, including proceedings connected with arrears or exactions of rent, *exempted* from the Jurisdiction of the Courts of the Moonsiffs. —Act III, 1839, Sec. iii; Act VI, 1843, Sec. vii.

Moonsiffs are prohibited from receiving or trying any suits which persons may desire to prefer to them in *formâ pauperis*. Reg. XXIII, 1814, Sec. xiii, cl. 3.—Reg. V, 1831, Sec. v, cl. 5 repealed this prohibition, and added that it should be competent to the *Judges to refer* such suits to the *Moonsiffs*, but that clause is repealed by Act XXXVI, 1852, Sec. 1.

MOONSIFF'S JURISDICTION: *As to Real and Personal property and amount. Relatives. Vakeels. Rent-free.*

Persons invested with the powers of Moonsiff shall be competent to receive, try, and determine *suits* of *every description*, if the landed or other real property to which the suit may relate shall be situated, or if in all other cases, the *cause of action* shall have arisen, or the *defendant*, at the time when the suit may be commenced, shall *reside* as a fixed inhabitant, *within* the *limits* to which their respective jurisdictions may extend. For *money*, or other personal property, not exceeding in amount or value the sum of *three hundred rupees*, provided the claim include the whole amount of the demand arising from the cause of action. Provided, however, that no *Moonsiff* shall try any suit in which he himself, or any of his *relatives or* dependants shall be a party.—Reg. V, 1831, Sec. v, cls. 1 to 3; Act VI, 1843, Sec. viii.

Every Sudder Ameen and Moonsiff shall have power and authority to try suits in which any *Vakeel* or Officer of his Court is a party, anything in Sec. viii, Act VI, 1843, and in cl, 2, Sec. xv. Reg. V, 1831, to the contrary notwithstanding; and *suits under cl.* 1, *Sec. xxx, Reg. II*, 1819, may be *referred* to them by the Zillah Judge for trial and decision under the *restrictions* as to local *jurisdiction* and *value* of property mentioned in cl. 1, 2, and 3, Sec. vi, and cl. 2, Sec. xv, Reg. V, 1831, (Sec. iv, *Act XXVI. of* 1852.)

MOONSIFF'S JURISDICTION; *Rent cases.*

Moonsiffs who may be ap-

pointed under the provisions of Regulation V, 1831, shall be competent in addition to the authority possessed by Moonsiffs generally, of receiving, trying, and deciding claims to *arrears of rent* preferred by *regular suit*, in like manner to dispose of all claims preferred by under-tenants, or others who may be desirous of resisting the *distraint* of their property, or the *attachment of their persons*, or who may prefer a claim to *damages* on account of such acts.—Reg. VIII, 1831, Sec. xi.

MOONSIFF: *Where his relative is concerned; Transfer of suit; Stamp in; and Appeal.*

In cases where a *Moonsiff* cannot try a suit because he himself, or any of his *relatives* or dependants, is a party to the suit, it shall nevertheless be competent to the Moonsiff to *receive* the suit, and *forward it to the Judge* of the Zillah to which he is subordinate, *who may* thereupon *refer* the same for trial and decision *to* any *other Moonsiff* of the district.—Act VI, 1843, Sec. ix.

The Zillah and City *Judges* may, for any reason that may appear to them sufficient, *bring up* for trial before them, or the Sudder Ameens, any causes that may be depending before the Moonsiffs, or may *transfer* such causes from one Moonsiff to another.—Reg. XXIII, 1814, Sec. xlvii.

All suits within the competency of a Moonsiff to decide, shall ordinarily be instituted in the Moonsiffs' Courts. Provided, nevertheless, that it shall be competent to a Zillah or City *Judge* to *receive* such suits, and *to try them himself, or to refer them* for trial to any other Court subordinate to his authority, whenever he may see sufficient reason for so doing.—Reg. V, 1831, Sec. vii.

Whenever a Zillah or City *Judge*, in the exercise of the discretion vested in him by Sec. vii, Reg. V, of 1831, shall refer for trial to *a Sudder Ameen, or Principal Sudder Ameen*, a Suit *within* the competency of *a Moonsiff* to decide, such suit shall be subject to the same rules in regard to *Stamp duties*, and to the same rules in regard to *appeal* as the said suit would have been subjected to had it been received and tried by the Moonsiff in the first instance.—Act XXV, 1837, Sec. v.

MOONSIFFS AND SUDDER AMEENS; *Liable to Civil Action for corruption &c.*

(See "Uncovenanted Judicial Officers.")

Moonsiffs and Sudder Ameens shall be *liable to an action in the Civil Court for corruption in* the discharge of their trust, or for *extortion*, or for *any oppressive or unwarranted act* of authority; and upon proof of the charge to the satisfaction of the *Judge*, he shall cause the offender to pay such *damages and costs* to the party injured, as may appear to be equitable.—Reg. XXIII, 1814.

MOONSIFF: *Decision; tender of; copies of; When and how; Misstatement to bar appeal—Penalty.*

When the decision shall have been passed, the Moonsiff or Sudder Ameen shall cause *two copies of* it to be prepared, and after attesting them with his seal and signature, shall, *within one week* after the date of the decree, *tender* the said *copies in open cutcherry*, both to the plaintiff and defendant, or to their Vakeels respectively. He shall *indorse* on the back of the said copies the actual *date* on which they may be tendered to the parties in open cutcherry; and if either or both of the parties shall *fail to attend or* shall *refuse* to receive the copies, so tendered, he shall *certify* the same on the back of the copies. Reg. XXIII, 1814, Sec. xli, cl. 1, and Sec. lxxiii.

Any Moonsiff or Sudder Ameen who may be guilty of wilfully *misstating* or falsifying, *or* of *causing* to be misstated or falsified, the *date and purport* of the endorsement above directed to be written on the copies of the decrees, or of *keeping back such copies* of decrees, from either of the parties, with the view of defeating or opposing a bar to their right of appeal, shall, on proof thereof, be *liable to dismission* from Office, and to such *discretionary fine to* Government, as may be deemed proper by the Court.—Reg. XXIII, Sec. xli, cl. 2, and Sec. lxxiii.

MOONSIFFS: *Nazirs; Tullubana.*

The Moonsiffs shall retain on their establishments *Nazirs*, to whom the *provisions* of Clause 8, Section xiv, Regulation XXVI, 1814, respecting the payment of *tullubana*, shall be *applicable*.—Act XIV, 1845, Sec. ii.

MOONSIFFS. *Pleaders.*

The *rules* applicable to pleaders *in the Courts of the Zillah and City Judges* shall be *applicable*, so far as they are capable of application, *to* pleaders in the *Moonsiffs' Courts*.—Act I, 1846, Sec. xi.

Whenever a pleader has conducted himself in such a manner in the Court of a Moonsiff as would have rendered him liable to a *fine*, if he had so conducted himself in the Court of a Zillah or City Judge, it shall be competent to such Moonsiff to impose such fine; provided that an *appeal* from all orders, imposing such fines, shall lie to the Zillah or City *Jndge*, whose decision thereon shall be *final*.—Act I, 1846, Sec. xii.

MOONSIFFS: SUDDER AMEENS, *Security; power to demand.*

It shall be competent to the Sudder Ameens and Moonsiffs to demand Security *from the defendant*, under the provisions of Sections iv and v, Regulation II, 1806 in cases pending before them; *and* also *to proceed*, without reference to the *Zillah Judge*, to the realization of *fines* imposed by them, provided that all orders passed by the Sudder Ameens and Moonsiffs under this Section, be *subject to an appeal to the Zillah Judge*.—Act VI, 1843, Sec. iv.

MORTAGAGES, CONDITIONAL SALES: *Principal; Interest Accounts; Teeps; Contracts;*

period of one year; notice of foreclosure.

It has been long a prevalent *practice in* the province of *Behar* to borrow money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has, in the above province, been usually denominated *bye-bil-wuffa;* and the same transaction is *common in Bengal*, under an instrument termed *kut-cubbaleh.* It doubtless exists also, under deeds of the above or similar denominations, in *Orissa and Benares:* and since the promulgation of the rules respecting interest, contained in Regulation XV, 1793, V. Act XXVIII of 1855 and "Usury," it has become more prevalent, particularly in the province of Behar, wherein instances have occurred in which persons lending money on bye-bil-wuffa, *in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender, or evaded receiving payment of the money due to them within the period limited for the discharge of it. In* such cases, the *proof* of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate. It is necessary, therefore, *for the security of the borrower,* in such transactions, that he should have the means of establishing before a Court of Judicature his having *tendered, or being ready to pay, within the stipulated period,* the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property, by the payment of the money lent upon it, within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute, and the property included therein finally transferred to the lender. For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor-General in Council has passed the following rules, to be considered in force in the provinces of Bengal, Behar, Orissa, and Benares, from the date of the receipt of this Regulation by the several Courts respectively. —Reg. I, 1798, Sec. i.

In all instances of the loan of money on *bye-bil-wuffa*, or on the conditional sale of landed property, as explained in the preceding Section, however denominated, the *borrower*, who may be *desirous to redeem* his land by the payment of the *money lent* upon it, *with* any *interest* due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either *to tender and pay* to the

lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment if evaded or denied, *or without any tender* to the lender, to *deposit* the amount due to him, *on or before the stipulated date, in the Dewanny Adawlut* of the City or Zillah in which the *land may be situated;* and the *Judge,* receiving the same, shall furnish the party with a written *receipt* for the amount, *specifying on what date, and for what purpose* such deposit may have been made. He shall also, at the same time, cause a written *notice* of such deposit to be delivered *to the lender;* and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall *pay him* the amount deposited, and take his *acknowledgment,* to remain among the records of the Court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—*When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of* 12 *per cent. per annum;* or if interest be payable, and *no rate* has been *stipulated,* with *interest* at the established rate of 12 *per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited,* leaving the *interest* to be *settled on an adjustment* of the lender's receipts and disbursements during the period he has been in possession. *In either case, a deposit* made as above required, shall be considered to *preserve to the borrower his full right of redemption;* and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section. *Provided,* however, that if the *borrower* in any case shall *deposit a less sum* than above required, alleging that the sum so deposited is the total amount due to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be *admitted* by the lender, or be established, on investigation, to be the *total amount* due to him, the *right of redemption shall be considered* to have been *fully preserved* to the borrower, who will *not,* however, in such cases be *entitled* to the recovery of his *lands, until* it be admitted or established that he *has paid* the full amount due from him. —Reg. I, 1798, Sec. ii.; Reg. XXXIV, 1803, Sec. xii.

In all instances wherein the lender on a *bye-bil-wuffa,* or similar conditional sale, may have been put in possession of the land, and an *adjustment of accounts* may consequently become necessary between him

and the borrower, the lender is to *account to the borrower for the proceeds of the estate*, whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV, 1793, as far as the same may be applicable to the nature of the case. But *such part of Section x* of the above Regulation, as directs that the mortgages therein referred to are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being *inapplicable to the conditional sales* referred to in this Regulation, it is hereby *declared not to apply thereto*.—Reg. I, 1798, Sec. iii; Reg. XXXIV, 1803, Sec. xiii.

A *teep* for the repayment of money lent on the conditional sales referred to in this Regulation, shall *not* be considered a *legal tender, unless accepted* as such by the lender; the *proof* of which acceptance shall be the lender's *giving up the bill of sale, or* giving a *written acknowledgment* that he has received back the money lent by him.—Reg. I, 1798, Sec. iv; Reg. XXXIV, 1803, Sec. xiv.

Nothing in this Regulation being intended to alter the *terms of contract* settled between the parties in the transactions to which it refers *(illegal interest excepted)*,* the several provisions in it are to be construed accordingly; and any question of *right* between the parties is to be regularly brought and determined by the *Courts* of Civil Justice.—Reg I, 1798, Sec. v; Reg. XXXVI, 1803, Sec. xv.

It is requisite, for the purpose of *preventing improvident* and injurious *transfers of landed property*, at an inadequate price, by the forfeiture of mortgages accompanied with a condition of sale to the mortgagee, if the amount advanced be not repaid within a stated period, (which description of mortgage is common throughout the country, under deeds of *bye-bil-wuffa, kut-cubaleh*, and other similar designations), that an equitable provision should be made for allowing a *redemption of the estate*, within a reasonable and limited period, on *payment of the principal sum lent, with interest thereupon, if the mortgagee shall not have been put in possession*.—Reg. XVII, 1806, Sec. i.

When the mortgagee may have obtained possession of the land, on execution of the mortgage deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, *the payment or established tender of the principal sum lent, with any interest*

* V. Act XXVIII of 1855; and "Usury."

due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is *finally foreclosed in the manner provided for*, by the following section; that is to say, at any time *within one year* (Bengal, Fussily, or Willaity, according to the era current, where the mortgage may take place), *from and after the application of the mortgagee to the* Zillah or City *Court of* Dewanny Adawlut *for foreclosing the mortgage*, and rendering the sale conclusive, in conformity with the following Section: *Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee* or his legal representative; or that the amount due be deposited, *within the time above specified, in the Dewanny Adawlut of the Zillah or City* in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by Sec ii, Reg. I, of 1798, the whole of the provisions contained in which Section, as applied therein to the stipulated period of redemption, are declared to be equally *applicable to* the extended period of *one year*, granted for an equitable right of redemption by this Regulation. —Reg. XVII, 1806, Sec. vii.

Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preceding section, may be *desirous of foreclosing* the mortgage, and rendering the sale conclusive, on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall, (*after demanding payment* from the borrower or his representative), *apply* for that purpose *by a written petition, to be presented by himself or by one of the authorized vakeels of the Court, to the Judge* of the Zillah or City in which the mortgaged land or other property may be situated. The *Judge*, on receiving such written application, shall cause the *mortgagor* or his legal representative to be furnished, as soon as possible, with *a copy of it*; and shall at the same time *notify to him by a perwanah*, under his seal and official signature, that *if he shall not redeem* the property mortgaged in the manner provided for by the foregoing Section, *within one year* from the date of the notification, the mortgage will be *finally foreclosed*, and the conditional sale will become *conclusive*.—Reg. XVII, 1806, Sec. viii.

OATHS: *Affirmations.*

Except, as hereinafter provided, instead of any oath or declaration now authorized or required by law, every individual of the Hindoo or Mahomedan persuasion within the territories of the East-India Company shall make affirmation to the following effect:—

"*I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth.*"—Act V, 1840, Sec. i.

If any person making such affirmation as aforesaid, shall wilfully and *falsely state* any matter or thing, which, if the same had been sworn before the passing of this Act, would have amounted to perjury, every such offender shall be subject in all Courts to the same punishment to which persons convicted of *perjury*, were subject, before the passing of this Act.—Act V, 1840, Sec. ii.

Any person *causing* or procuring another to commit the offence defined in the preceding Section, shall be subject in all Courts to the same punishment to which persons convicted of *subornation of perjury* were subject, before the passing of this Act.—Act V, 1840, Sec. iii.

This Act shall *not* extend to any declaration made under the authority of Act No. XXI, of 1837, nor to any declaration or affirmation made in any of *Her Majesty's Courts* of Justice; *provided* always that, the words, "Her Majesty's Courts of Justice" shall be deemed not to mean, nor extend to, the Courts of the *Justice of the Peace*.—Act V, 1840, Sec. iv, and Act II, 1847.

PARTY: *Meaning of; in Act XXXIII, of* 1852.

The word "judgment" means a judgment in a Civil suit or proceeding, and includes any *final decree or order* in a Civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.—Act XXXIII, 1852, Sec. xi.

PARTIES: *Defendant, what notice to be given to and how. If notice cannot be served. Security. Attachment. Sureties.*

Upon the institution of a Civil Suit in a Court of original jurisdiction, the *general first process against the defendant shall be a notice*, containing a short statement of the *demand*, with a requisition *to attend in person or by vakeel*, and to deliver an *answer to the plaint, on or before a certain day* to be specified in the notice.—Reg. II, 1806, Sec. ii, cl. i.

If the defendant have an accredited agent at the place where the Court is held, expressly empowered, either *by a clause in his general mokhtarnamah, or by a separate* mokhtarnamah granted for that purpose, to receive on behalf of his constituent, notices or other judicial processes, which may not be specially ordered to be served personally by an officer of the Court, *the notice* shall be tendered to such *agent*, to be communicated by him to his principal; and the *agent's acknowledgment*, to be endorsed upon it, shall be accepted as a *sufficient service of it*, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by an officer of the Court.—Reg. II, 1806, Sec. ii, cl. 2.

If the defendant shall not

have an accredited agent at the place where the Court is held, *or* if he shall *not* have expressly *authorised his agent* to receive notices of the above description; *or* if such *agent* shall *decline* receiving the notice for communication to his constituent, and the defendant be resident within the jurisdiction of the Court, *it shall be served on him through the Nazir of the Court, by a single chupprassy or peon,* who shall require only *the acknowledgment of the defendant to be endorsed upon it, or* if he be *absent* from his usual place of residence, the acknowledgment of *his principal agent, or of any person acting for him* during his absence. If the defendant be resident within the jurisdiction of *any other Court,* than that in which the suit may have been instituted, the notice shall be transmitted to *the Judge of the Court in which the defendant may reside, to be served in the manner above directed.* If the defendant be neither resident within the jurisdiction of the Court in which the suit may be instituted, nor of any other Court, and the suit shall notwithstanding be cogizable, either in *claims to landed* or other immovable *property, from* the property claimed being *situated* within the jurisdiction of the Court, or, in *other cases,* from *the cause of action having arisen within its jurisdiction,* the *notice,* if the suit be *for land* or other immovable property, shall be *served upon the defendant's agent or representatives in charge of such property;* and in other suits, the *Judge* shall cause notice of the claim to be conveyed to the defendant, in such manner, *as may appear most certain and convenient,* according to the circumstances of the case.—Reg. II, 1806, Sec. ii, cl. 3.

If a defendant to whom a notice may have been issued, as directed in Section ii shall *abscond* or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, *so that the notice cannot be served upon him,* the Judge *on* receiving the *Nazir's return* to this effect, shall issue a *proclamation,* to be stuck up in some conspicuous part of the *room* in which the *Court* may be held. The proclamation is to *contain a copy of the* notice, and shall declare that if the party shall not appear on *a day to be fixed* (which shall not be *less than fifteen days from* the time that the *proclamation* may be fixed up), the Court will proceed without further notice to try and determine the cause *without the appearance* or answer of *the defendant.* The Court is likewise to order a copy of the *notice and proclamation* to be fixed up with all practicable despatch on *the outer door of the house,* in which the defendant may have usually dwelt, or in some *conspicuous place in the village,* or other place, in which he may have generally resided. The *Nazir is to return the order, with an*

endorsement, stating at what *times and places* the notice and proclamation may have been *fixed up*. The return of the Nazir is to be filed in Court, and to form a part of the record of the trial. *If the defendant shall not appear* in person or by Vakeel, by the time limited in such proclamation, or if a defendant who may have been served with a notice as directed in Section ii, shall not appear in person or by Vakeel within the time specified, *or* if, having appeared, he shall *refuse* to answer the plaint *or* make other *default*, *or admit* the truth of the complaint, the *Court* shall proceed to try the cause *ex-parte*; and after examining the plaintiff's evidence in support of his claim, shall give judgment in the same manner *as if* the defendant *had appeared*, answered, and entered into proof.—Reg. IV, 1793, Sec. xi; Reg II, 1806, Sec. iii.

If a defendant, after receiving the notice above prescribed shall attend in person or by Vakeel, and deliver his answer to the plaint, and *no reason* shall subsequently appear to the Court *for requiring security*, for his appearance, during the trial of the suit, he shall be allowed to defend the cause to its termination, *without* being called upon for such *security*. *But if* the *Judge* shall be satisfied by sufficient *proof*, that there is reason to believe that the defendant *intends to abscond*, and withdraw himself from the jurisdiction of the Court, he may, either on the institution of the suit, or at any time whilst the suit is depending in the Court, *issue process* against the defendant, *requiring* him to give *security*, and answer to the complaint, either in person or by Vakeel, *under penalty of* being committed to *close custody*, until such security be given, or the decree of the Court be complied with, or until an attachment of property shall have taken place, to secure the execution of the ultimate judgment in the cause. The *security bond* to be executed in such instances, shall, in substance, correspond with that *prescribed* by Section iii, Regulation XI, 1797;* and in fixing

* *Form of security bond prescribed in sec. iii, Reg. XI*, 1797:—

"Whereas a suit has been instituted in the Dewanny Adawlut of the Zillah [or City] of ——— by ——— plaintiff, *against* ———, defendant; and whereas ———, inhabitants of ———, have voluntarily become security for the appearance of the said defendant to answer to the above suit, and *perform all such orders* as may be passed thereupon, *until* the final decree on it shall have been carried into *execution*; I do therefore hereby *engage* and bind myself, my heirs and successors, that the said defendant shall *appear in person* or by vakeel, to make answer to the plaint against him in the suit aforesaid, on the ———, being the day on which his appearance has been required in the said Zillah (or City) Court; and further, that the said defendant shall *personally attend* at the said Zillah (or City) Court *whenever* the same may be *required by the Judge* thereof, at any time whilst the above suit is depending before the Zillah Court or Court of Sudder Dewanny Adawlut, or before the final decree which may be

the *amount of the security* to be required, the Judge shall exercise his discretion with respect to the responsibility of the surety or sureties to be found by the defendant for his personal attendance when required; and in the first instance, whatever may be the claim of the plaintiff, shall demand from the defendant *such security only as may appear necessary to secure his appearance*, during the trial of the suit: Provided, that if at any time in the course of the trial, the security so taken from the defendant shall appear to the Judge insufficient, he is authorized and required to take such *further security* as he may think necessary, to secure the appearance of the defendant.—Reg. IV, 1793, Sec. v; Reg. II, 1806, Sec. iv; Reg. III, 1802, Sec. ii; and Act VI, 1843, Sec. iv.

In any case, *if the Judge be satisfied* by sufficient proof that there is ground to apprehend *the defendant means to dispose of the property* in his possession by any private transfer, *or to cause the public sale* of any disputed land, *by withholding assessment upon it, or to remove any personal property* from the jurisdiction of the Court whilst the suit against him is depending, for the purpose of avoiding the execution of an eventual judgment against him, the Judge is authorized to call upon the defendant for *malzaminy security, in such sum* as may appear sufficient to make good the *ultimate judgment* of the Court: and in the event of such security *not being given* (within a reasonable *time* to be allowed for that purpose), to cause the *attachment of any land, effects, or other property belonging to*, or possessed by the *defendant, to the* amount or *value of* the cause of action in the *suit* depending, *or* the attachment of which may be deemed *necessary*, to secure the execution of the judgment to be passed in the cause.—Reg. II, 1806, Sec v, cl. 1.

The *attachment* in such cases shall be made by a *written order of the Court*, to be read and *proclaimed upon the spot*, and to be *affixed* in some *conspicuous* situation at the place where the property is situated; *after which any private alienation* of the property sequestered, whether by sale, gift, or otherwise, during the continuance of the attachment, shall be deemed *illegal and void, and any unauthorized removal of the property* so attached, during such period, with a view to oppose or evade the sequestration, shall be punishable, on proof, as an *act of resistance to the process* of the Court, according to the provisions in force concerning resistance to the process of the Civil Courts. In

passed thereupon by the above Courts respectively, shall be fully and completely carried into *execution*; in default of which, and in the event of my not producting the said defendant when called upon, I will be *answerable for such sum* as may be *adjudged* against him, and *for the performance of whatever order* or decree may be passed against him on the suit above-mentioned."

suits for landed property of *considerable value*, wherein it may appear *necessary* for the purposes of justice to *divest the defendant from the management of the land, until* the suit be *decided, or* malzaminy *security* be given, the *attachment* shall be made through the *Collector* of the district in which the land is situated, as prescribed by Section vi, Regulation V, 1798, in appealed cases, wherein neither the appellant nor respondent may be able to give security for staying execution of the decree. *But in other cases*, the attachments which may be ordered under the present rule *shall not*, without special cause to be recorded on the proceedings of the Court, *remove the defendant* or his representative *from the possession* and management of the land, or other property attached, until a decision be passed in the cause before the Zillah or City Court; *nor* be understood to *preclude any act* of the defendant or his representative relative to such property, which may be *consistent with the object of the attachment*.—Reg. II, 1806, Sec. v, cl. 2.

Upon the decision of the suit, the *Judge* shall *pass* such further *order, relative to the property attached,* as may be just and conformable with the judgment given in the cause. *If* the decree be *against the defendant*, all right and interest possessed by him in the *property attached* (*saving* arrears of *rent or revenue* due from land, and any other *bond fide* claims which may be entitled to satisfaction in preference to the decree) shall be held *answerable* for the execution of the judgment, in the mode prescribed by the Regulations. But *if the plaintiff's claim be dismissed,* or be not in any considerable porportion established against the defendant, *all expense and loss to the defendant* which may arise from the attachment of his property, in consequence of such claim, shall be *reimbursed to him by the plaintiff, as* part of the *costs* of suit. Reg. II, 1806, Sec. v, cl. 3.

Whenever any property may be *attached* by order of a Zillah or City Court, under the above provisions, the *trial of the cause* shall be proceeded on, and *brought to a conclusion as speedily as possible, without* regard to the *order* of time, with respect to *other* depending *causes,* in which it may have been instituted. The *attachment shall also be taken off* on the delivery of *sufficient malzaminy security,* at any time previous to the decision of the cause in the Zillah or City Court. —Reg. II, 1806, Sec. vi.

If a *defendant* for whose appearance security may have been taken, *shall not appear, or* having appeared, shall *refuse* to give *answer,* the *plaintiff is* permitted to institute *a suit* against the *sureties* on their engagement, and is to be entitled to *recover* from them whatever he may prove to be *due* to him from the defendant, *or* he *may proceed against the*

defendant, in the same manner as defendants are directed to be proceeded against who have been served with a notice, and have not appeared, or have refused to give answer.—Reg. IV, 1793, Sec. xii.

PARTIES: *Defts. Women of Rank.*

In any case in which the defendant shall be *a Hindoo or Mahomedan woman, of a rank or quality* which according to the customs and usages of the country, would render it improper to compel her to appear in an *open Court of* Justice, the Judges of the Zillah and City Courts are not to issue any compulsory process against her to compel her to appear and make answer, but are to issue a notice requiring her to *appear in person or by vakeel*, at a certain time, to be named in the notice, in the Zillah or City Court, and answer to the complaint, and abide by the orders which the Court may think proper to pass in the cause. The *notice* is to be directed to the Nazir of the Court, and is to contain a short account of the *nature of the demand* or complaint, with a *notice*, that if the defendant shall not appear, as required at the time specified in it, or having so appeared, *shall not answer* to the complaint, at the time which may be fixed by the Court, or make any other default, the Court will proceed to try and *determine the cause* in the same manner *as if* the defendant *had appeared*, answered, and done what she is authorized or required to do, in defence of the suit. The *notice* is further to command the *Nazir to deliver a copy of it to the dewan, or some principal servant of the defendant.* The Nazir is not to have recourse to compulsion to enforce the notice, but is to serve it in the manner herein directed, and no other. The *Nazir is to return* the notice on the day appointed for the appearance of the defendant, with an *indorsement* specifying in what manner he has executed it; and if he has *not executed it, the reason why* it has not been executed. *If* the defendant should *appear* in person or by vakeel, the Court is to *fix a certain day*, according to its discretion, for her to answer to the complaint, and to appoint a day for the parties to deliver in their pleadings, and the Court is to try and determine the cause, in the same manner as suits instituted against persons not being women of the above-mentioned description. Upon the notice being issued, *if* the dewan or other principal servant of the defendant shall abscond, or otherwise act so that *the notice cannot be served* upon him, or *shall not*, after diligent search and inquiry *be found*, the *Judge, upon the return* of the notice, and *proof* being made before him on declaration or oath of the fact, is to proceed against the defendant, in the same manner *as he* is directed *to proceed* against a defendant. who after diligent search, cannot be found, or shall have *absconded*, or

otherwise acted so that he could not be served with a notice. *If a female defendant*, on whom no notice can be served, shall not appear as required, or appearing shall *neglect or refuse to answer, or* make *other default*, or admit the truth of the complaint *the Court* on examining the allegations of the *plaintiff* only, and receiving the *depositions of his witnesses*, are to decree and *give judgment*, in the same manner, *as if* the defendant had *appeared*, answered, and entered into proof.—Reg. IV, 1793, Sec. xiii.

PAUPERS: *Amount; Probable cause of action; Personal attendance; Stamp; Females; Perjury; Grounds of rejecting; Sureties; Pleaders; Stamps; Fees; Vexatious cases; Imprisonment; Absconding; Sureties; Costs: Transfer of cases.*

No person shall be hereafter entitled to institute or defend any suit in *formâ pauperis* in any Civil Court of Judicature, *unless* the amount or value of the thing claimed shall exceed the *sum of sixty-four rupees*.—Reg. XXVIII, 1814, Sec. iii.

No person shall be hereafter permitted to institute a *suit* as a pauper in any Civil Court of Judicature, if the claim shall be *for damages* on account of loss of *caste, slander, abusive language, assaults, or personal injuries of any description; or* if the claim shall be for the possession or recovery of *deeds or papers or for fines, forfeitures, or pecuniary penalties*, on account of any breach of the Regulations. *Nor* shall any person be entitled to institute any suit in *formâ pauperis*, in any Civil Court of Judicature, *unless* the Court in which his petition may be presented shall, before granting such petition, be satisfied by the examination of the petitioner, or of his or her agents or witnesses (which examination shall be taken on oath, or solemn affirmation), that there is *probable cause for instituting the suit*.—Reg. XXVIII, 1814, Sec. iv, and Act IX, 1839, Sec. i.

Whenever a party may be desirous of instituting an original suit as a pauper in any Civil Court, he shall *appear in person* before such Court, and shall present a *petition*, *Provided*, however, that if the party be a *female of a rank* and descriptoin which according to the prejudices of the country, would render it improper to require her personal attendance in a Court of Justice, such petition may be presented by a mokhtar or *agent* duly authorised for that purpose.—Reg. XXVIII, 1814, Sec. v, cl. 1.

The *petition* shall contain a general statement of the *nature and grounds of the demand*, of the *value* of the thing claimed, according to the provisions of Schedule B, Regulation X, 1829, of the name of the person or *persons* intended to be *sued*, and a *schedule of the whole* real or personal *property* belonging to

the *petitioner*, with the estimated *value* of such property. —Reg. XXVIII, 1814, Sec. v, cl. 2.

In all suits instituted in *formâ pauperis* the *pleadings* on the part of the defendant, as well as all papers filed on his part on which a stamp is required by Schedule (B) of Regulation X, of 1829, may be written on *unstamped paper*, and *copies* of orders or proceedings which the defendant may be required to take, shall be furnished to him on *unstamped* paper; *provided* always that on the conclusion of the suit, the Court shall calculate the whole of the *costs* which would have been incurred by the defendant on account of *stamp duties*, if the suit had not been instituted in *formâ pauperis*, and shall *charge* the same to the *party cast*, *or* to the *parties respectively*, in such proportions as may be deemed reasonable.—Act IX, 1839, Sec. ii.

The Court in which the petition may be presented, or an authorized officer of the Court, shall then proceed to take the examination of the *petitioner*, or if the petitioner be a *female* of the description mentioned in Sec. 5, cl. 1, the examination of her *agent*, with regard to the points above noticed, and shall *question* him *particularly* with respect to any *real or personal property* which the petitioner may have recently sold, mortgaged, transferred, or otherwise disposed of. Such *examination* shall be taken *on oath*, *or* on a solemn *declaration* in lieu thereof, under the provisions in force, in that behalf.—Reg. XXVIII, 1814, Sec. v, cl. 3.

In taking the examination of the petitioner or agent in such cases, it shall be the duty of the *Court* to *admonish* him that any wilful misrepresentation or *falsehood*, or the fraudulent concealment of any material fact regarding the property in the petitioner's possession, or the recent transfer of such property, will subject him to be tried for *perjury*, and, on conviction, to the punishment which is now or may be hereafter prescribed for that crime by the Regulations —The *petitioner or agent shall subscribe his examination*, which shall then be *authenticated* by the Court in the usual manner.—Reg. XXVIII, 1814, Sec. v, cl. 4.

If upon such examination it should appear to the Court that the petitioner is possessed of *property sufficient to defray the expenses of the suit*, *or* that he has recently sold, mortgaged, or otherwise *transferred* any property with the view of being admitted to sue as a pauper, the *Court* will at once *refuse* to admit his suit in that form, and will refer him to the general rules in force.—Reg. XXVIII, 1814, Sec. v, cl. 5.

If there shall appear any grounds for suspecting that the petitioner is possessed of property, or has recently transferred any property beyond that which he may have acknowledged or stated in his

petition and examination, the Court may issue a *notice to the adverse party*, signifying that if such party shall appear within a reasonable period to be fixed by the Court, he shall be permitted to *show cause why the plaintiff should not* be allowed to *sue as a pauper*. The Court may also summon witnesses, or institute a *local inquiry* in the neighbourhood of the petitioner's residence, with the view of ascertaining whether the petitioner has recently transferred, or is possessed of any property beyond that stated in his examination.—Reg. XXVIII, 1814, Sec. v, cl. 6.

If from the result of such inquiry, or at any subsequent period, it should be satisfactorily established that the petitioner or the agent of a female petitioner has been guilty of wilful *perjury* in his examination, the Court will not only *refuse the prayer* of the petitioner (or nonsuit the plaintiff if the cause be depending), but will cause the *person* appearing to have been *guilty* of *perjury* to be *committed to the Sessions Court*, to take his trial for such offence. —Reg. XXVIII, 1814, Sec. v, cl 7.

If none of the objections stated in cl. 5 and 7, Sec. 5, should exist, and the petitioner should *not appear* to be possessed of *sufficient property* to enable him to defray the probable expenses of the suit, the Court is empowered to *admit him to sue as a pauper*, on his finding *two* good and sufficient *sureties*, both of whom shall be *householders*, for his *appearance*, whenever his attendance may be required by the Court.—Reg. XXVIII, 1814, Sec. vi, cl. 1.

When the required sureties shall have been furnished, if the pauper shall be unable to prevail on any of the vakeels of the Court to undertake his suit, and he shall be unable to plead the cause in person, the *Court may require any of the authorized pleaders of the Court to* undertake and *plead* the suit. —Reg. XXVIII, 1814, Sec. vii, cl. 1.

The Courts are to state on the record of the trial their *reasons for every exercise of the power* vested in them by this Section; and the *order of the Court*, in such cases, shall be a *sufficient* warrant to the vakeel to plead in the suit *without* filing the usual *vakalutnamah*.—Reg. XXVIII, 1814, Sec. vii, cl. 2.

The *stamp* duty which has been substituted for the institution fee by Regulation X, 1829, shall *not be required from* plaintiffs who may be admitted to sue as *paupers* under this Regulation. The notice to the defendant, the summons for witnesses, and other *process* on the part of the plaintiff, shall be *served* through the chuprassies on the establishment of the Courts *without any expense to the plaintiff*; and the copy of the decree, as well as *copies* of orders or proceedings which he may be required to take, shall be furnished to a pauper plaintiff *on unstamped* paper.—Reg. XXVIII, 1814, Sec. viii.

If the pauper plaintiff shall *gain* his suit, the Court will cause the *defendant* to make good the amount of the *fees* due to the *pleader*, who may have been employed on account of the plaintiff, or such part of them as the Court may decree. —Reg. XXVIII, 1814, Sec. x. cl 1.

If the plaintiff shall *not* establish his claim, *and the Court* shall *deem* the suit to be *unfounded*, vexatious, or wilfully exaggerated, *and* the *plaintiff* shall *not pay* the amount of his *own fees and the fees and costs* which may be awarded against him in favour of the opposite party, the *Court* is authorized to *commit him to close custody* in the civil gaol, without labour, for a period not exceeding six months.—Reg. XXVIII, 1814, Sec. xi, cl. 1.

Such order of confinement shall be carried into *immediate execution*, and shall *not* be *suspended*, in consequence of the plaintiff's being desirous of *appealing* from the judgment Provided, however, that the plaintiff shall at any time be *entitled to his discharge* from such confinement, on his *paying into Court the full amount of the costs and expenses*, awarded against him in the decree.—Reg. XXVIII, 1814, Sec. xi, cl. 2.

If the *pauper* plaintiff shall *abscond*, and his *sureties* shall *not produce* him, before the Court, and the order for *his imprisonment cannot therefore be carried into effect*, the said *sureties* shall be called upon to make *good the full amount of the costs*, adjudged against the plaintiff. In the event of their refusing or *failing* to make good the costs, the *Court* is authorized to *commit them to close custody, without labour, in the civil gaol, for a period not exceeding six months*, subject to the provision contained in the preceding clause.—Reg. XXVIII, 1814, Sec xi, cl. 3.

The confinement of a pauper plaintiff, or of his sureties, under this section, shall *not preclude* the Court from *realizing the costs and expenses*, adjudged against a pauper plaintiff, but in all cases in which such plaintiff may fail to make good the costs and expenses to which he may be declared liable in the decree, whether those costs may be due to the defendant or the Government, the Court shall endeavour to *realize* the amount by the *sale of any property* which may *belong to the plaintiff*, either *at the time* of decree *or subsequently* thereto. —Reg. XXVIII, 1814, Sec. xi, cl. 4

When a plaintiff may have been admitted by any Civil Court to institute his suit in *formâ pauperis* under the rules for paupers contained in Regulation XXVIII, 1814, and the suit may, in other respects, be *referrible* to a *Sudder Ameen*, it shall be competent to the Judge to refer the same for trial and decision by one of the Sudder Ameens attached to the Zillah or City Court, or stationed in any other part of his jurisdiction; and the suit

so referred shall be proceeded upon by the Sudder Ameen as in other suits referred to him, subject to the provisions contained in Regulation XXVIII, 1814.—Reg. XIII, 1824, Sec. iv, cl. 2.

The provisions in the Regulation above mentioned respecting pauper defendants in original suits, as well as those respecting pauper appellants and respondents in appealed cases, shall likewise be considered applicable to defendants in original suits before Sudder Ameens; but *no person* shall be admitted by a Sudder Ameen to *prosecute or defend* an original suit or appeal in *formâ pauperis, without the written order of* the Zillah or City *Judge*, authorizing the admission of the party as a pauper under the provisions of Regulation XXVIII, 1814.—Reg. XIII, 1824, Sec. iv, cl. 3.

The *Judges* who are empowered by Sec. v, Reg. XXVIII, of 1814; to *employ* an authorized officer of the Court in taking the *examinations of parties and witnesses for* the *purposes* therein *specified*, may however employ the *Sudder Ameens* attached to their respective Courts, in taking such examinations and generally in making the inquiries provided for by that Regulation. *But no final order* for the admission of a pauper shall be passed by a Sudder Ameen, nor shall the commitment of pauper plaintiffs to *close custody*, in pursuance of Sec. xi, be carried into execution by a Sudder Ameen, *without the sanction of the Judge.*—Reg. XIII, 1824, Sec. iv, cl. 4.

PAUPER: APPEALS: *Rules for Admission; Stamps; Fees; Costs; Defts. or Respts.; Summary Suits and Appeals; Privy Council.*

If any party to an original suit may be desirous of *appealing in formâ pauperis* from the decision passed in such suit, he shall present a *petition to the Court by which his appeal* may be regularly *cognizable* under the Regulations.—Reg. XXVIII, 1814, Sec. xii, cl. 1.

Such petition shall be accompanied by an authenticated *copy of the decree*, and shall contain a *schedule of* the whole real or personal *property* belonging to the petitioner, and the estimated *value* of such property, together with a statement of the *specific grounds* on which the petitioner may desire to prefer an appeal.—Reg. XXVIII, 1814, Sec. xii, cl. 2.

If upon a perusal of the petition and a copy of the *decree*, the original *judgment* shall *not* appear to the Court to be *erroneous or unjust*, *or* if the nature of the *cause* shall *not* appear to be of sufficient importance to *merit* a *further investigation in appeal*, the Court will *reject* the *petition*, *and* will *refuse* to admit the petitioner to sue in *appeal*, as a pauper.—Reg. XXVIII, 1814, Sec xii, cl. 3.

Provided, however, that the petitioner shall nevertheless be

entitled to institute his *appeal, on* performing the *conditions* of appeal prescribed by the Regulations for persons *not suing as paupers* —Reg. XXVIII, 1814, Sec. XII, cl 4.

If upon a perusal of a petition presented under the preceding rules, and of the copy of the decree accompanying it, the Court shall be of opinion that there is *reason to believe the judgment* to be *erroneous or unjust, or* that the nature of the *cause* renders it *deserving* of a further investigation in *appeal,* the Court is empowered to *admit the appeal,* subject to the *rules* and conditions prescribed in Sec. v. Secs. VII, VIII, X, and XI, shall also be considered applicable to persons who may be admitted to appeal in *formâ pauperis.*—Reg. XXVIII, 1814, Sec. XIII.

If a decision be passed in any original suit in favour of a pauper plaintiff, and the *adverse party* shall *appeal* from such decision, the principles of the *rules* contained in Secs. VII, VIII, and X, shall without any further inquiry, be considered *applicable to* the respondent or *original pauper plaintiff* in such appealed suit, *provided* that the *execution* of the original decree shall have been *suspended* during the appeal.—Reg. XXVIII, 1814, Sec. XIV.

If a decision in *favour of a pauper* plaintiff be *reversed in appeal,* the amount of the *stamp* duty, substituted for the institution *fee,* which may have been paid by the *appellant,* shall be *returned* to him by the Court, together with such portion of the *deposit* which may have been made by him on account of the fee payable to his *vakeel,* as may be deemed *reasonable,* and the amount of such stamp duty and deposit, as well as other *costs and expenses* which may be awarded in the decree against the *respondent,* shall be *recovered from any property* which the respondent *may at any time* be found to *possess.*—Reg. XXVIII, 1814, Sec. XV.

If a *defendant or respondent* in any suit (except in the case provided for by Sec. XIV,) shall be *desirous* of being admitted to plead in *formâ pauperis,* he shall *appear,* either in person or by an authorized agent, before the Court in which the suit may be depending, and shall present a petition containing an exact *schedule* of the whole real or personal property belonging to him, and the estimated value of such property.—Reg. XXVIII, 1814, Sec XVI, cl. 1.

The Court to whom such petition may be presented shall then proceed in conformity with Sec. V.—Reg. XXVIII, 1814, Sec, XVI, cl. 2.

If, after the examination and inquiries prescribed in that Section, the Court shall be satisfied that the *petitioner* is *not* possessed of *sufficient property to defray* the probable expenses of the *suit,* and that he can *neither plead* the suit *in person nor prevail on* any of the authorised *pleaders* of the

Court to undertake the defence of the suit, the *Court* is empowered to *grant* to the petitioner the *same advantages and facilities* in *the defence of the suit* as are allowed to *pauper plaintiffs and appellants*, under Secs. vii, viii, and x, and *no security, except for personal appearance*, shall be required from such defendant or respondent.—Reg. XXVIII, 1814, Sec. xvi, cl. 3.

The *rules* contained in Regulation XXVIII, 1814, are intended to *apply to regular suits, and appeals only*, and *not to summary suits or summary appeals of any description; but the provisions* in that Regulation respecting *appeals* in *formâ pauperis*, from decisions passed in original suits, shall be considered *applicable to any second or special appeals* which may be preferred in *formâ pauperis*, and which may be deemed admissible under the rules in force in respect of special appeals. Reg. XXVIII, 1814, Sec. xvii; Reg. II, 1825, Sec. v.

Copies of the proceedings and *judgments of the Sudder* Dewanny Adawlut *in appeal to the Queen in Council* shall be furnished *without expense to paupers* who may be *parties* in such appeals, and shall be written on *unstamped paper of European manufacture*.—Reg. XXVIII, 1814, Sec. xviii.

The *proviso* contained in cl. 1, Sec. v, Reg. XXVIII, of 1814, in regard to *females of rank*, shall be *applicable, at the discretion of the Courts of Sudder* Dewanny Adawlut of the presidency of Fort William in Bengal respectively, *to any party* desirous of *appealing in formâ pauperis* to either of those Courts.—Act XIX, 1840.

PAUPERISM: *may be enquired into by Moonsiffs.*

The Zillah and City Judges are further empowered to employ the *Moonsiffs* in ascertaining, and *reporting* upon the *sufficiency of securities, and the indigence of* persons suing *in formâ pauperis*.—Reg. XXIII, 1814, Sec. liii.

PLEADERS: *Who may be; Qualifications; Sunud; Oath; Duties as to pleadings; Liabilities; (different in L. P.) Stamps; Absence; Resignation; Arbitrations; Legal opinions; Retainer; Remuneration; One or more pleaders; Suits withdrawn or default; Receipts for papers; Public expense; Pleaders; Govt. pleaders. Any one may plead for himself; Paupers; Copies of Laws open to Vakeels; Vakeels in the Courts of Sudder Ameens and Principal Sudder Ameens and Moonsiffs; Fines.*

NOTE.—There being *no* enactment *rescinding or transferring to any other authority* the *control in respect of* the appointment and removal of *pleaders* assigned to the *Provincial Courts*, the "*Sudder Dewanny Adawlut*," has been *substituted* in the following rules according to an analogy in Secs. iii, and v, Reg. II, 1833.

The *Sudder* Dewanny Adawlut *and* the several Zillah *Courts* are empowered to *appoint* to

the office of vakeel in their respective Courts, *such* a number of *persons*, being *natives of India*, and duly qualified for the situation, *as* may from time to time appear to them to be *necessary*.—Reg. XXVII, 1814, Sec. III, cl. 1.

The office of pleader in the Courts of the East India Company shall be *open to all* persons of whatever nation or religion, *provided* that no person shall be admitted a pleader in any of those Courts unless he have obtained a *certificate*, in such manner as shall be directed by the Sudder Courts, that he is of *good character* and *duly qualified* for the office, any law or regulation to the contrary notwithstanding.—Act I, 1846, Sec. IV.

Provided nevertheless, that every *barrister* of any of Her Majesty's Courts of justice in India shall be *entitled*, as such, *to plead in* any of the *Sudder* Courts of the East India Company; *subject*, however, *to all* the *rules* in force in the said Sudder Courts applicable to pleaders, whether *relating to the language*, in which the Court is to be addressed *or to any other matter*.—Act I, 1846, Sec. V.

Every Attorney on the roll of any of Her Majesty's Supreme Courts of Judicature in India shall be entitled, as such, to plead in any of the Sudder Courts of the East India Company, *subject* however *to all the rules*, for the time being, in force in the said *Sudder Courts* respectively, *applicable to barristers* pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter.—Act XX, 1853, Sec. III.

That part of Sec IV, Act X, 1846, *which provides* that no person shall be admitted a pleader in any of the Courts of the East India Company, unless he have obtained a *certificate* in such manner as shall be directed by the Sudder Courts, that he is *of good character and duly qualified*, for the office, shall *not extend to barristers or attorneys* of any of the Supreme Courts; but every such barrister and attorney shall be entitled, as such, to plead in any of the Courts of the East India Company, subordinate to the Sudder Courts, *subject to all the rules* in force in the said subordinate Courts respectively *applicable to pleaders* therein, so far *as* such rules relate *to the language* in which the Court is to be addressed *or to any other matter* connected with pleadings therein.—Act XX, 1853, Sec. IV.

Persons who may be appointed to the office of *vakeel* in the Zillah and City Courts, or the Sudder Dewanny Adawlut, shall receive a *sunnud of* appointment duly authenticated by the Court to which they may be respectively attached. This sunnud, which is *not* required to be written on *stamped* paper, shall be drawn up according to the following *form*.

"In conformity with the provisions of *Regulation XXVII*,

1814, you, A, B, are hereby appointed to the office of pleader in the Sudder Dewanny Adawlut, or in the Zillah or City Court of ———. You will not be liable to be removed from your situation so long as you may conduct yourself with *propriety*, and discharge your duty with *zeal* and *integrity*, under the rules contained in the Regulations which now are, or may hereafter be in force"—Reg XXVII, 1814, Sec iv, cl. 1

Whenever a *vakeel* may be *dismissed* from his office, or may *die*, or may *resign* his situation, his *sunnud* of appointment shall be *recalled and cancelled* by the Court to which such vakeel may have been attached—Reg. XXVII, 1814, Sec iv, cl. 2.

Every *vakeel*, previously to being allowed to practise shall make and subscribe before the Court to which he may be appointed an *oath or a solemn declaration* according to the following *form*.

"I, A B, solemnly swear (or declare) that I will truly and *faithfully* execute the duties of pleader of the Sudder Dewanny Adawlut, or the Adawlut of the Zillah or City of ———, to the best of my knowledge and judgment."—Reg XXVII, 1814, Sec. v, cl. 1; Reg. XVIII, 1817, Sec ii.

Except in the *Lower Provinces*, pleaders employed in the several Courts of Civil Judicature, shall be liable to *dismission* from their office, whenever they may be guilty of encouraging or *promoting litigious suits*, of *wilfully delaying* the suits of their clients for *their own advantage*, of *refusing* or omitting, without sufficient cause to be shown to the Court, *to carry on* the suits of their clients after having accepted a *vakalutnamah*, or of *fraudulent practices*, *neglect* or *other misconduct* in the discharge of their *professional* duty, or of *gross profligacy or misbehaviour*, in their *private conduct*—Reg. XXVII, 1814, Sec. vi, and Act XVIII, 1852, Sec. i.

(NOTE *The last cited law repeals the first, as for the L P*)

Except in the *Lower Provinces*, the vakeels are required to use due precaution to ascertain the *real names* and the *identity of persons* who may propose to employ them as pleaders; and any authorised vakeel who shall hereafter receive and file a vakalutnamah from any person under a *fictitious* name, shall be liable to be *dismissed* from his office. *Provided*, however, that the Judge upon full inquiry into the circumstances of the cause shall deem him to be *deserving* of such punishment.—Reg. XXVII, 1814, Sec. viii, and Act XVIII, 1852, Sec. i.

(Note as above)

The *vakeels* are enjoined not to file any *plaint, answer, or other pleading*, without previously ascertaining that such pleading has been *duly prepared* in conformity with the Regulations, that it contains

no unnecessary repetitions of former pleadings, no terms of personal abuse or reproach against the opposite party, his vakeels, witnesses, or other persons, and no groundless imputations of any Court of justice or public officer, but that it contains *such matter only* as is apparently *material and relevant* to the suit. Every *pleading* filed by an authorised vakeel shall be *signed by him*, in testimony of his having *considered and approved* its contents.—Reg. XXVII, 1814, Sec. ix, cl. 1.

In order that the expense, *trouble*, and inconvenience frequently experienced by filing *irrelevant exhibits*, and by summoning *useless witnesses* may be *avoided*, the *vakeels* are hereby further required to *examine* the documents which their constituents may propose to exhibit in proof of their claims, previously to their being filed in Court; and to ascertain from their constituents, previously to summoning any witnesses, the specific *points* which such *witnesses* are expected *to prove* by their testimony.—Reg. XXVI, 1814, Sec. ix, cl. 2.

Except in the *Lower Provinces*, the *Courts* will carefully *point out to* the notice of the *vakeels* such parts of the pleadings as are evidently irregular, irrelevant, or otherwise *objectionable*, and shall *record* their *censure* of any vakeel whose conduct in opposition to the preceding rules may in any particular instance demand such animadversion. If, notwithstanding such recorded censure, a vakeel shall *again be guilty* of similar misconduct, he shall be liable in each instance to such *fine* to Government, not exceeding twenty rupees, as the Court may deem it proper to impose.—Reg. XXVII, 1814, Sec. ix, cl. 3, and Act XVIII, 1852, Sec. i.

(NOTE. *The last cited law repeals the first, as for the L. P.*)

Except in the *Lower Provinces*, the Sudder Dewanny Adawlut and the several Zillah Courts will, at all times, exercise their discretion in *removing* from his office any pleader of their respective Courts who may be guilty of any of the acts above mentioned, or who may be otherwise deemed unfit for the situation.—Reg. XXVII, 1814, Sec. x, cl. 1, and Act XVIII, 1852, Sec. i.

(Note: as above.)

Except in the *Lower Provinces*, whenever a Zillah or City Judge shall be of opinion that a *vakeel* attached to his Court, or any of the Sudder Ameens, is unfit for the situation, in consequence of his having been *guilty* of any of the acts mentioned in Sec. ix, cl. 3, Reg. XXXII, of 1814, *or otherwise disqualified* for the office of pleader, the Judge shall *report* the circumstances of the case, together with his own opinion upon it, to the Sudder Dewanny Adawlut, who will pass such orders on the case as may appear to be proper, or will call for any additional information, or direct

any further inquiry that the nature and circumstances of each case may appear to demand.—Reg. XXVII, 1814, Sec. x, cl. 2, and Act XVIII, 1852, Sec. i.

(Note: as above.)

Except in the *Lower Provinces*, the Zillah and City Judges are empowered to *suspend* from his office any pleader attached to their Courts who may be *guilty of any gross act of fraud or misconduct;* but, in such instances, it shall be the duty of the *Judge* to *report* the circumstances of the case, with as little delay as possible, for the information and orders of the Sudder Dewanny Adawlut.—Reg. XXVII, 1814, Sec. xi, and Act XVIII, 1852, Sec. i.

(Note: as above.)

Except in the *Lower Provinces*, every *vakeel*, or authorized pleader or mooktar, attached to any Court of Judicature, who shall present for the purpose of being *filed or recorded* in any Court or Cutcherry, any paper, petition, or any deed, instrument, or *document* requiring to be stamped by the rules of Regulation X, 1829, on *unstamped* paper, *or* on paper *not* bearing the *proper stamp, and not duly endorsed, or* on *paper* bearing a *counterfeit stamp, unless* signed and *endorsed by a vendor* as prescribed, shall forfeit *five times* the amount of the stamp which ought to have been used, or *five times the difference* in case of the use of *improper* stamps, as prescribed in Section xiii, Regulation X, 1829. The said *fine* shall be imposed and levied by the presiding officer of the Court in which the said vakeel or mooktar may be practising, and the amount shall be remitted to the Collector, with copy of the proceedings or order imposing the fine.—Reg. X, 1829, Sec. xviii, cl. 1, and Act XVIII, 1852, Sec. i.

(Note: as above.)

Except in the *Lower Provinces*, it shall further be competent to the *Collector* or other officer exercising similar powers, on discovery of any irregularity of the above description, not noticed on the proceedings of the Court, *to move the Court by petition*, to be presented *to the Judge* of the Zillah within whose jurisdiction such vakeel or other person so *offending may be practising*, for infliction of the above *fine*, when incurred in any Court within the Zillah or City jurisdiction, or if the vakeel so offending be an officer of the *Sudder Dewanny* Adawlut, then the *Collector* shall make *application* to that Court *through the vakeels of Government attached thereto*, and the case shall be *tried* and adjudged *by the Zillah Judge, or* by the *Judges of the superior Court*, and their decision respectively, as to whether the *penalty* has been incurred or not, shall be *final*.—Reg. X, 1829, Sec. xviii, cl. 2, and Act XVIII, 1852, Sec. i.

(Note: as above.)

The *parties* in a cause are authorized to *prosecute* their respective *pleaders* in the Civil

Courts of Judicature for any *damages or injury* which they may have sustained *from any breach of the Regulations* on the part of their pleaders, *or* from any *fraudulent conduct or mal-practices,* committed by their pleaders regarding the suit.—Reg. XXVII, 1814, Sec. xii, cl. 1.

Any *party* in a suit who may be *dissatified with* the conduct of *his pleader,* shall be at liberty, *at any stage* of the trial previously to the decision, to *withdraw* the *power* delegated to his *pleader,* and to appoint another vakeel to plead the cause. In such cases, the party is to present a *petition* to the Court, notifying that he has withdrawn the management of the suit from such pleader, and is to file a *new vakalutnamah* in the name of the pleader whom he may appoint to carry on the suit. *All acts,* however, which may have been done by the *first pleader* on the part of his client, *previously to his* having been *dismissed* are to be held *valid.*—Reg. XXVII, 1814, Sec. xii, cl. 2.

Except in the *Lower Provinces,* if a *pleader* employed in any business, to be transacted on that day, should be *unable to attend* the Court in consequence of *indisposition or other sufficient reason,* he is to *notify* the same *in writing* to the *Court* on *unstamped paper, and the hearing of any cause in which such pleader may be employed is to be postponed to a future day, unless* the party or his authorized agent shall commit the management of the cause to any *other pleader* of the Court, or unless the party himself shall be present and willing to *plead the cause in person. If* the management of the cause shall be entrusted to *any other* pleader of the Court, *instead* of filing *a new vakalutnamah,* it shall be *sufficient* for *the party or his mooktar* duly authorized, *to endorse on* the back of the *original vakalutnamah,* a written *declaration* that he has appointed some other vakeel of the Court to conduct the cause, either permanently, or during the absence of the pleader first appointed. —Reg. XXVII, 1814, Sec. xiii; Act XVIII, 1852, Sec. i, and Act XX, 1853, Sec. ii.

(The second law cited, repeals the first, as for the L. P.)

Except in the *Lower Provinces,* if a *pleader* employed as above shall *fail to attend* in Court on any day fixed for the transaction of Civil business, and shall *omit to notify* in writing to the Court his inability to attend, in consequence of indisposition or other sufficient cause, the Court is authorized to impose on such pleader a *fine* for the *first* offence not exceeding the sum of *fifty* rupees, and for the *second* offence not exceeding *one hundred* rupees. If such pleader shall be guilty of a similar offence a *third* time he shall be liable to *dismission* from his office.—Reg. XXVII, 1814, Sec. xiv, cl. 1, and Act XVIII, 1852, Sec. i.

(NOTE; *as above.)*

Except in the *Lower Pro-*

vinces, if any pleader shall be *guilty of disrespect* to the Court, in open Court, the Court is empowered to impose *a fine* upon him not exceeding the sum of *one hundred* rupees.—Reg. XXVII, 1814, Sec. xiv, cl. 2, and Act XVIII, 1852, Sec. i.

(Note ; as above.)

Except in the *Lower Provinces*, all orders imposing *fines* on pleaders which may be passed by the *Judges* of the Zillah and City Courts, in conformity with this Regulation, shall be *final ;* and the amount of the fines shall be *levied*, either by a deduction from the *fees which* may become *due* to the offender, *or by* the *process* which is prescribed *for the execution of decrees*.—Reg. XXVII, 1814, Sec. xv, cl. 2, and Act XVIII, 1852, Sec. i.

(Note : as above.)

No pleader shall be bound *to attend* in any of the Courts of the East India Company, on any day fixed for the transaction of Civil business, or to notify to the Court his inability to attend, *unless* he shall be *employed in some cause* or business, *which according to the practice of the Court*, may be heard or *transacted* therein *on that day*, anything in any law or regulations to the contrary notwithstanding.—Act XX, 1853, Sec. ii.

Whenever a vakeel attached to a Zillah or City Court may *die* or may be *removed* from his office, or may *voluntarily resign* his situation, the *Judge* of such Zillah or City shall *notify* the same in a *publication* to be affixed in *his own* Cutcherry, *and* in the *Cutcherries of the several Courts*, and the *Collector* of the district. The *publication* shall contain a statement of the several depending *cases*, in which such vakeel may have been employed, and a *requisition to the parties* who have retained such vakeel, *to attend* in person, *or to substitute* another *vakeel* in room of the pleader formerly appointed by them, *within a reasonable period*, to be fixed by the Court, *not being less than six weeks*. In such instances, instead of filing a new vakalutnamah, it shall be *sufficient for the party or his Mookhtar*, duly authorized, to *endorse* on the back of the original *vakulutnamah* a written *declaration*, that he has appointed some *other vakeel* of the Court in lieu of the pleader who may have died or resigned his office, or have been removed from his situation.—Reg. XXVII, 1814, Sec. xviii, cl. 1.

A *publication* issued in conformity with the preceding rules, shall be held and considered to be a good and *sufficient notice :* and *if any party* shall *not attend* or appoint another vakeel within the period limited in the publication, he shall be required to *show cause* for the omission, and if sufficient cause be not assigned, the Court shall proceed as in case of *default* in conformity with the provisions in force.—Reg. XXVII, 1814, Sec. xviii, cl. 2.

A *similar* notification shall be issued on the death, resignation, or removal of any pleader attached to the *Sudder Dewanny Adawlut*. If the pleader shall have been attached to the Sudder Dewanny Adawlut, the *publication* shall be affixed in *that Court, and in such of* the Zillah and City *Courts*, in which it may appear *necessary* to publish the same, *with reference to* the depending *causes*, in which the *vakeel* may have been *employed*, and the *period* to be allowed *to parties to* appear and *substitute* another vakeel, shall *not be less than three months*.—Reg. XXVII, 1814, Sec. xviii, cl. 3.

The *Courts* are authorized to *apply the principle* of the preceding rules *to cases* in which the decision of suits may be materially *delayed* by the protracted *indisposition of a pleader*, or by his *continued inability to attend the Court from any other cause, which may be expected to be permanent or of considerable duration*.—Reg. XXVII, 1814, Sec. xviii, cl. 4.

The Courts of Civil Judicature are empowered to permit any of the authorized *vakeels* of their respective Courts, *to be arbitrators* in depending suits, *subject to* the several *rules* and provisions in force *for* referring suits to *arbitration*. —Reg. XXVII, 1814, Sec. xix.

The authorized *vakeels of* the *Sudder Dewanny* Adawlut, and of the Zillah and City Courts, are empowered to receive *fees for legal opinions* under the provisions contained in the following rules.—Reg. XXVII, 1814, Sec. xx, cl. 1.

Any person who may be desirous of obtaining the *opinion* of an authorized pleader regarding the legal validity and sufficiency of any claim, right, or title which he may suppose himself to possess, and on the consequent expediency of prosecuting or defending either originally or in appeal, such *supposed claim*, right, or title in the Courts of Civil Judicature, may submit a *written statement* of his claim, under his seal, signature or mark, *to the pleader whose opinion he may wish to obtain*.—Reg. XXVII, 1814, Sec. xx, cl. 2.

The *pleader* to whom such statement may be submitted, after an *attentive consideration* of the *laws*, regulations, *usages or precedents* which may be applicable to the case, and of the *arguments and proofs* which may be adduced in support of the claim, shall *furnish* to the party, under his signature, a *written declaration of his opinion, and of the grounds*, upon which that opinion may be formed.—Reg. XXVII, 1814, Sec. xx, cl. 3.

Provided, however, that it shall *not* be *lawful* for any *pleader* who may *have* received a *vakalutnamah* in *any suit*, instituted in a Court of Civil Judicature, to receive the *fee on account of any legal opinion*, which he may subsequently furnish to his constituent respecting any subject or question

connected with such suit.—Reg. XXVII, 1814, Sec. xx, cl. 5.

Any pleader who under the preceding rules may *knowingly* furnish an *opinion* of a nature evidently calculated to promote the institution of *unfounded or litigious suits*, or to discourage the amicable adjustment of dubious claims, shall be liable to be *dismissed* from his office. —Reg. XXVII, 1814, Sec. xx, cl. 6. (This does not apply to Lower Provinces. Act XVIII, of 1852, Sec. i. repeals this cl. 6.

When a party in a cause may be desirous of *retaining* a vakeel for the prosecution or defence of any Civil suit, he shall *not* be required to pay to such vakeel the *retaining fee* of *four annas* heretofore prescribed, *but* he shall execute to him a *vakalutnamah*, constituting him pleader in the cause, and authorising him to prosecute or defend the suit, and further *binding himself to abide by and to confirm all acts which such pleader may do*, or undertake in his behalf in the cause, in the same manner as if such party had been personally present and consenting. The party is to *attest* the instrument with his seal or signature, or with his mark if he cannot write, in the presence of *two credible witnesses*, who are likewise to attest it in the same manner, and who are to attend the Court and *prove the vakalutnamah*, in all cases in which it may be judged requisite.—Reg. XXVII, 1814, Sec. xxi, cl. 1.

Such vakalutnamahs are to be written on the *stamped* paper prescribed in No. 6, Sched. B, Reg. X, 1829, but shall not be liable to the stamp duty on exhibits under No. 5 of the same Schedule.—Reg. XXVII, 1814, Sec. xxi, cl. 2.

When a *vakeel* to whom a *vakalutnamah* may have been executed under the last two preceding Sections, shall consent to undertake the prosecution or defence of the suit, he *shall affix his signature* to the *back of the vakalutnamah*, together with the *date* on which such signature may be affixed, *and* shall thenceforward be *precluded* from being *employed* in the same cause *against the party*, who may have so *retained him*.—Reg. XXVII, 1814, Sec. xxii.

Fees. (FORMERLY.) *First.* In all regular suits which may be instituted, either originally or in appeal, subsequently to the 1st of February, 1815, in any of the Zillah or City Courts, or the Sudder Dewanny Adawlut, the vakeels employed by the respective parties are to be allowed for pleading the causes of their clients the *rates of fees* calculated as follows :—

In suits for money, effects, or for other *personal property, or for land* or other immoveable property of any description, if the amount or value of the claim estimated according to the provisions of Regulation X, 1829, shall *not exceed* 5,000 rupees, *five* per cent.

If the amount or value shall *exceed* 5,000 rupees, and shall

not exceed 20,000 *rupees*, on 5,000 *as above*, and *on the remainder two per cent.*

If the amount or value *shall exceed* 20,000 *rupees*, and shall *not exceed* 50,000 rupees, *on* 20,000 *as above*, and on the *remainder one per cent.*

If the amount or value *shall exceed* 50,000 rupees, and shall *not exceed* 80,000 *rupees*, on 50,000 *as above* and on the *remainder eight annas per cent.*

If the amount or value *shall exceed* 80,000 *rupees* the fee to the vakeel shall be 1,000 *rupees;* and shall in *no instance exceed that sum* however great may be the value or amount of the suit in which such vakeel may be employed.

Second. In all the preceding calculations, where the amount or value may be in fractions of rupees, such *fractions* are to be *rejected* in calculating the fees thereupon.

Third. The vakeels are to receive the *full amount* of their fees without any deduction whatsoever; provided, nevertheless, that for every sum which may be paid to a vakeel by a Civil Court on account of his fees, such vakeel shall give a *receipt written on the stamped* paper prescribed in No. 45, Sched. A, Reg. X, 1829.—Reg. XXVII, 1814, Sec. xxv.

The preceding Section shall not be enforced except for the purposes specified in the following Section.—Act I, 1846, Sec. vi.

Fees. (How.) Parties employing authorized *pleaders* in the said Courts shall be at liberty to *settle* with them by *private agreement*, the *remuneration* to be paid for their professional services, and it shall *not* be necessary to *specify* such *agreement* in the *vakalutnamah;* provided that when *costs* are awarded to a party in any *regular suit*, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of pleaders shall be *calculated according to the rules contained in Sec. xxv*, Reg. XXVII, of 1814, and when *costs* are awarded in *other cases*, the amount to be paid on account of such fees shall be *one-fourth of* what it would have been in a *regular suit* decided on its merits.—Act I, 1846, Sec. vii.

Private *agreements between parties and their pleaders* respecting the remuneration to be paid for professional services shall *not be enforced otherwise than by a regular suit.*—Act I, 1846, Sec. viii.

Persons taking *opinions* from authorized pleaders, as provided in Sec. xx, Reg. XXVII, of 1814, shall be at liberty to settle with them by *private agreement*, the remuneration to be paid for such opinions.—Act I, 1846, Sec. ix.

If the *decree* shall be given *against the defendant or respondent*, and the *whole* of the money or property which may be demanded by the appellant or plaintiff shall be decreed to him, a sum equal to the *whole of the fees* of his pleader, shall be adjudged to the plaintiff or

appellant, *in addition to the other costs*, which may be awarded to him; but *if* only a *part* of the money or property claimed is decreed to the plaintiff or appellant, a sum bearing the same *proportion* to the money or to the *value* of the thing *decreed, as the fee did to the demand stated in the plaint or appeal*, is to be decreed and added to the costs, which may be awarded to the plaintiff or appellant.—Reg. XXVII, 1814, Sec. xxvi, cl. 1.

If the *suit of the plaintiff or appellant* shall be *dismissed*, whether upon an investigation of the merits or otherwise, the plaintiff or appellant is *to be charged with the fees of his own pleader and with those of the defendant or respondent*.—Reg. XXVII, 1814, Sec. xxvi, cl. 2.

Provided, however, that if in any instance the payment of the pleader's *fees*, according to the preceding rules, should *not* appear to be *just* and *equitable*, the *Courts* of Civil Judicature may exercise their *discretion in charging the fees of the pleaders to the parties respectively, in* such *porportions* as may appear *equitable* and proper, under a consideration of all the circumstances of the case.—Reg. XXVII, 1814, Sec. xxvi, cl. 3.

The parties *in a suit* are respectively permitted to entertain *two or more pleaders*.—Reg. XXVII, 1814, Sec. xxx, cl. 1.

It shall be sufficient in such cases, for the party employing *two or more vakeels* in the same suit, to file a *single vakalutnamah*.—Reg. XXVII, 1814, Sec. xxx, cl. 2.

The *opposite party* in the suit shall *in no case* be required to *make good more than the fee of one of those pleaders, or* such *part of that fee* as may be *adjudged* against him by the Court. The fees of the *other pleader* are to be considered as a *separate expense*, to be defrayed exclusively by the party entertaining him, and for which he is not to be reimbursed in any case whatever.—Reg. XXVII, 1814, Sec. xxx, cl. 3.

If a *suit* shall be *withdrawn* or *dismissed on default* without a determination upon the merits of the case, *before all the requisite pleadings shall have been filed in Court*, the respective pleaders of the plaintiff and defendants, or of the appellant and respondent, shall each be entitled to only *one-fourth of the fee* which they would have received, had the suit been brought to a regular decision by the Court. If a suit should be *withdrawn or dismissed on default after all the requisite pleadings* shall have been filed in Court, the respective pleaders are to be entitled to *one-half* the fees which they would have received if judgment had been given in the cause. The *fees* in both of the above-mentioned cases are *to be charged* to the plaintiff or appellant *withdrawing* the suit, or suffering it to be dismissed on default, together *with all* the admitted *costs* incurred by the defendant or

respondent.—Reg. XXVII, 1814, Sec. xxxi, cl. 1.

The *same rule* shall be considered applicable to cases adjusted by *razeenamah*, except that the *fees of the pleaders and all other costs of the suit* shall be paid by the *parties*, in such manner and proportions, *as may have been agreed upon, and inserted in the razeenamah.*—Reg. XXVII, 1814, Sec. xxxi, cl 2.

NOTE.—The two last foregoing rules are subject to the modifications declared in Act I. of 1846.

Pleaders are to give written *receipts* on unstamped paper for *all accounts, writings, or documents* which may be delivered to them by their clients, in the course of any suit or process. If a *pleader shall refuse to return* such accounts, documents, or writings, the *Court*, upon a *petition* being presented to them for that purpose by the owners of the papers so withheld, shall *cause them to be restored.*—Reg XXVII, 1814, Sec. xxxvi.

One or more of the authorised *pleaders* of the Sudder Dewanny Adawlut, and the Zillah and City Courts, shall be appointed for the purpose of conducting the prosecution or defence of any suits in those Courts respectively, which may be directed to be carried on at the *public expense*, by any Regulation or by a special order from the Governor General in Council, or other authority competent to pass such order Those pleaders shall be furnished with a *sunnud* or written authority to that purport, under the signature of the Secretary to Government in the Judicial Department, and the sunnud shall be drawn up according to the following *form* —

"In conformity with the provisions of Regulation XXVII, 1814, you, A. B., are hereby appointed to the office of pleader on the part of Government in the Sudder Dewanny Adawlut, or in the Zillah or City Court of ———. You will not be liable to be removed from your office so long as you may conduct yourself with propriety, and discharge your duty with *zeal, ability*, and *integrity*, under the Regulations which are now in force or which may hereafter be enacted."—Reg. XXVII, 1814, Sec. xxxvii, cl. 1.

On the occasion of *vacancies* occurring in the office of the *Vakeels of Government* in the Courts of Justice, those Courts shall *report* to the Secretary to Government in the Judicial Department, the death, resignation, or removal of any such vakeels —Reg. XXVII, 1814, Sec. xxxvii, cl 2; Reg. XIII. 1829, Sec. iv, cl. 2.

It will rest with *Government* to ascertain by such inquiries as they may deem necessary, which of the constituted pleaders of the Court is *best fitted* by his qualifications and character to *succeed* to the vacant office, *and to appoint* such individual accordingly.—Reg. XIII, 1829, Sec. iv, cl. 3.

The *pleaders for Government* are to undertake *all causes* which they may be directed to plead by orders from Government, or which may be directed by any Regulation to be carried on at the *public expense*, upon receiving *an order* for that purpose, either from Government or from any officer or officers empowered by any Regulation to superintend and to furnish instructions for conducting such suits. The *order of Government or of such officer or officers*, is to be *filed* in Court, as the authority of the pleader to plead the cause, and is to form *part of the record* of the proceedings. —Reg. XXVII, 1814, Sec. xxxvii, cl. 3.

The pleaders of Government are *prohibited* from giving any *advice* to the parties *opposed to Government* in any Civil suit or proceeding, *and* from being *concerned*, directly or indirectly on their behalf, *in suits* which are directed to be carried on *at the public expense;* but *in all other suits*, the pleaders of Government are to be *at liberty to plead* for either of the parties, in the same manner, as the other authorized pleaders of the Court.—Reg. XXVII, 1814, Sec. xxxvii, cl. 4.

The pleaders *for Government* are to be paid the *same fees* in causes directed to be pleaded at the public expense, as pleaders employed in causes between individuals, and under the same rules and restrictions. —Reg. XXVII, 1814, Sec. xxxvii, cl. 5.

In pleading *suits* directed to be carried on at the *public expense*, the pleaders for Government are to be *subject to all the rules prescribed* for their guidance, *when pleading* on behalf of *individuals, except* in matters or cases in which it may be otherwise specially directed by any Regulation.— Reg. XXVII. 1814, Sec. xxxvii, cl. 6.

The *Boards* of Revenue, *or* any *other authorities* intrusted with the management of suits on the part of Government, are empowered to *associate with the established vakeel of Government any other* authorized *pleader*, in cases in which such aid may, from the importance of the suit, or any other reason be judged necessary or advisable. Such *additional pleader* shall be furnished with a *vakalutnamah*, duly authenticated by the officer or authority employing him, and shall be entitled to receive the *same fees*, and under the *same rules* and restrictions, *as if* he were employed *on the part of an individual*.—Reg. XXVII, 1814, Sec. xxxvii, cl. 7.

No part of this *Regulation* is to be construed to prohibit or *prevent any individual from* appearing and *pleading his own cause* in person, in any of the Courts of Civil Judicature, without employing an authorized pleader.—Reg. XXVII, 1814, Sec. xxxviii.

The provisions of Regulation XXVII, 1814, are to be construed with *reference to Sections vii, x, and xv, of*

Regulation XXVIII, 1814, *in suits* where one or both of the parties may be permitted to plead in *formâ pauperis*, in conformity with the rules contained in that Regulation.—Reg. XXVII, 1814, Sec. xxxix, cl. 2.

That the pleaders in the several Courts, as well as all other persons, may have it in their power to render themselves acquainted with the Regulations enacted by the British Government, there shall be kept for *public inspection*, in the several Courts of Judicature, *printed copies* of all *such Regulations and of the translations* in the native languages, bound up with the *annual indexes*. Until the Regulations which may be passed in each year are so bound up, the separate copies of each Regulation, with the translations which may be printed and circulated to the Courts, are to be *exposed* as above directed. The Regulations are to be *deposited upon a table expressly allotted for that purpose, in* some part of the *Court-room*, and to *lie for public inspection every day*, Sunday excepted, *during the ordinary hours of business*, when the pleaders of the Courts and all other persons, are to be at liberty to *refer to* the Regulations, or *take copies* or extracts from them in the Court-room. On receipt of the *translations of the Regulations* in the country languages, the several Courts of Civil Justice shall cause the same to be *publicly read* in their cutcherries, and shall *require the native pleaders* of their respective Courts *to take copies of* any of those translations which relate directly or indirectly to the administration of *Civil Justice*.—Reg. XXVII, 1814, Sec. xl.

All *causes* referred to the *Sudder Ameens* shall be pleaded either by the parties in person or by an authorized *vakeel* of the Zillah or City Court. The *Judges* of the several Zillahs and Cities will *assign* to the Court of each Sudder Ameen, such a number of the authorized *vakeels* as may appear necessary. The whole of the Regulations in force regarding the authorized vakeels of the Zillah and City Courts shall be applicable to the authorized vakeels employed in the Courts of the Sudder Ameens.—Reg. XXIII, 1814, Sec. lxxii.

It shall be competent to the Zillah and City *Judge to authorize* any of the *vakeels* of his Court, or of those attached to the Sudder Ameens, to practise in the Court of the *Principal Sudder Ameen*.—Reg. V, 1831, Sec. xviii, cl. 3.

Except in the Lower Provinces, whenever a pleader has rendered himself liable to a fine in the Court of a *Principal Sudder Ameen or Sudder Ameen*, it shall be *competent* to such Principal Sudder Ameen or Sudder Ameen to impose such *fine*; provided that an *appeal* from all orders imposing such fines shall lie to the Zillah or City *Judge*, whose decision thereon shall be *final*.—Act I, 1846, Sec. x, Sec. i, Act XVIII, of 1852.

NOTE. *(The last repeals the first.)*

Except in the Lower Provinces, the rules applicable to pleaders in the Courts of the Zillah and City Judges shall be *applicable*, so far as they are capable of application, to pleaders in the *Moonsiffs'* Courts. —Act I, 1846, Sec. XI.

NOTE, (*as above.*)

Whenever a *pleader* has conducted himself in such a manner in the Court of *a Moonsiff* as would have rendered him liable to a *fine* if he had so conducted himself in the Court of a Zillah or City *Judge*, it shall be *competent to such Moonsiff* to impose such *fine*; provided that an *appeal* from all orders imposing such *fines*, shall lie to the Zillah or City Judge, whose decision thereon shall be *final*. —Act I, 1846, Sec. XII. (V. Sec. VII. Act XVIII, of 1852, (p. 140) which supersedes this.)

PLEADERS; *Rules in Lower Provinces only; Criminal offence; Dismissal; Charges against; Appeals, Rules.*

Any *pleader* practising in the Courts of the East India Company in the Lower Provinces, shall be *liable to dismissal on proof of his conviction by a competent Court of a criminal offence or on proof* of a declaration or finding by a competent Court, in a suit or proceeding to which such pleader was a party, that he has *knowingly* committed a *breach of trust or for fraudulent or dishonest conduct in* the discharge of his *professional duty*.—Act XVIII, 1852, Sec. II.

When a competent Court has convicted a pleader of a criminal offence, or has declared or found, in a suit or proceeding to which such pleader was a party, that he has knowingly committed a breach of trust, the *Court* competent to dismiss such pleader may make an *order* for his *dismissal, on* the production of an authenticated copy of the *judgment* or decision containing such conviction, declaration, or finding, *and on proof* to the satisfaction of the Court that such *judgment* or decision has *not been set aside* or reversed, *and that* the *pleader is the party* to whom such conviction or decision relates.—Act XVIII, 1852, Sec. III.

When any *pleader is charged with fraudulent or dishonest conduct in the discharge of his professional duty*, by any person or Court, the Court competent to make an order for his dismissal shall serve, or cause to be *served upon such pleader, a copy of the charge or charges* brought against him, and also a *notice of the day appointed by the said Court for the hearing of such charge or charges*, and such copy and notice shall be served upon the said pleader at least *twenty clear days*, before the day appointed for such hearing: and on the hearing of the said charge or charges, the Court shall receive all such *relevant evidence*, as shall be properly tendered by or on behalf of the Court or party bringing the charge or charges, or by the said pleader, and

shall proceed to adjudicate on the said charge or charges in a *summary way*, and shall record its decision, and the reasons on which the same is grounded. *Provided* always, that the *Court* which is competent to *dismiss a pleader* shall *also* be competent to *bring a charge* or charges and proceed against him as aforesaid, *and* may also hear and *adjudicate* upon such charge or charges in manner hereinbefore mentioned. *Provided* also, that the *evidence* of witnesses on such hearing shall be taken and made *upon oath*, and every witness who shall give *false* evidence at such hearing shall be liable, on conviction, to punishment for *perjury*, in like manner as witnesses examined in civil or criminal trials.—Act XVIII, 1852, Sec iv.

The *power of dismissing pleaders practising in the Sudder Court* of the said provinces is vested in the *Judges of that Court*, the power of dismissing pleaders practising in the *Courts of the Zillah Judges, or in Courts subordinate to them*, in the said provinces, is vested in the *Zillah Judges respectively*.—Act XVIII, 1852, Sec v.

An *appeal from* the order of any Zillah *Judge* for the dismissal of a pleader may be made to the *Sudder Deewanny Adawlut, according to the rules* in force *for* the admission of *appeals*.—Act XVIII, 1852, Sec. vi.

It shall not be lawful for any of the said Courts of the Lower Provinces of the said presidency *to* impose any *fine* on any pleader practising in the said Courts, *except* such fine as may be imposed under the provisions of *Act XXX* of 1841.—Act XVIII, 1852, Sec vii.

PLEADINGS: *from whom and how to be received;*

No complaint is to be received *but from the plaintiff, nor* any *answer* to a complaint *but from the defendant, or* their respective *vakeels* duly empowered. Nor is any person to be permitted to do any act, or to be heard *viva voce* in any stage of a cause, excepting the plaintiff or defendant, or their vakeels or witnesses.—Reg. IV, 1793, Sec ii

PLEADINGS. *how and when to be read, enquiries thereupon.*

In the trial of original *regular suits*, as well as in the trial of *appeals* in such suits, the prescribed pleadings shall be completed and read *in open Court, before any exhibits* are filed *or witnesses summoned* in support of the allegations of either of the parties; *unless* special and sufficient reason be assigned for taking the immediate deposition of a witness, without waiting until the pleadings are completed and read in open Court.—Reg. XXVI, 1814, Sec. x, cl. 1.

PLEADINGS. *Plaint what it is to contain.*

Every complaint that may be presented in a Zillah or other Court of original jurisdiction shall state *precisely the grounds* of complaint, the *time* when the *cause of action* arose, the

name and residence of the person or persons *complained against*, the *total sum* of money or personal peoperty claimed, or, if the claim be for *landed* property, whether *Malgoozary or Lu-khiraj*, or the *profits* thereof, it shall state the *amount or value* thereof, which shall be *calculated* according to the *rules* prescribed in No. 8, Schedule B, Regulation X, 1829.—The *plaint* shall also state all *material circumstances*, which may elucidate the transaction and may tend to bring the matter in dispute to *a distinct issue*. The complaint is to be *signed and numbered, and dated*, in the order in which it may be received by the Judge of the Court, and *registered* in a book to be kept for that purpose.—Reg. IV, 1793, Sec. iii. Reg. XXIII, 1814, Sec. xvii.

PLEADINGS: *Answer; Reply; Rejoinder.*

If the *defendant* shall *appear*, either in person or by vakeel, the Court is to *fix a day*, according to its discretion, for him *to answer* to the complaint, and if it shall deem it reasonable so to do, may at any time allow the defendant a *further period* for delivering his answer. *When* the defendant has delivered in his *answer* to the complaint, the *plaintiff* is to *reply* to it on the *next Court day*; but he is *not* to be permitted to introduce *in his reply any matter* whatever which *may not be contained in his complaint*, but is *either* to *acknowledge* the answer of the defendant to be true, *or* simply and *shortly deny* the truth of such of the facts in the answer as he intends to dispute, or *simply deny* the truth of all the *facts* contained in it, *or* the *competency* of the answer. The *defendant* is to *rejoin* to the reply, on *the same day*; but is *not* to be permitted to introduce in his rejoinder *any matter not* contained *in his answer*, but is simply to *deny the truth of the reply* of the plaintiff, or the parts of it which he means to dispute, and *aver* the truth or competency of *his own answer*; and no further pleadings whatever are to be admitted in the cause. Whenever a defendant shall refuse or *neglect to rejoin* at the time appointed for that purpose, the *Court* is to proceed in the trial in the same manner *as if* the defendant himself *had rejoined*. —Reg XXVI, 1814, Sec. vi, cl. 2; Reg. IV. 1793, Sec. v.

PLEADINGS: *Stamp of.*

If during the trial of any regular suit it shall appear that the plaint has been written on stamped paper of a *less value* than that which ought to have been used under the provisions of No. 8, Schedule B, Regulation X, 1829, and the Court shall be of opinion that the error or omission did *not* arise from any *fraudulent* motive, or from any design on the part of the plaintiff to evade the provisions of the Regulations, it shall be *competent to the Court*, either to *permit* or to direct the plaintiff or appellant in the suit, to file a *duplicate* of the plaint on *stamped paper*,

of such a value, as may be *sufficient to complete* the full amount of the stamp duty prescribed.—Reg. XXVI, 1814, Sec. vii.

PLEADINGS: *Supplemental.*

No supplemental complaint, or other supplemental pleadings, shall be *admitted* in any suit, *unless the Court,* upon a perusal of the pleadings previously filed, and from a consideration of the circumstances alleged by the parties, shall *deem it just and proper* to admit such supplemental plaint or other supplemental pleadings to be filed in the suit.—Reg. XXVI, 1814, Sec. vi, cl. 3.

PRINCIPAL SUDDER AMEEN: *Who eligible to be; Deeds of appointment; Oaths of; Pay of; Jurisdiction.*

It shall be competent to the Governor-General in Council to appoint to *any Zillah* or City jurisdiction *one or more Principal Sudder Ameens,* with the powers hereinafter specified. *No person by reason of place of birth, or by reason of descent, or of class, or persuasion,* shall be *incapable* of being a Principal Sudder Ameen; and every Principal Sudder Ameen, being a British born subject of the Queen, or a descendant of such British born subject, shall, in respect of all acts done by him, as such Principal Sudder Ameen, be liable to the same proceedings, and shall be answerable to the jurisdiction of the same tribunals as if he were not of British birth or descent. —Reg. V, 1831, Sec. xvii, Cls. 1, and 2; Act VIII, 1836.

The persons selected for the office shall be appointed by the Governor-General in Council, and shall receive their *sunnuds* or commissions from Government, under the *signature* of the *Secretary* in the *Judicial Department.*—Reg. V, 1831, Sec. xvii, Cl. 2.

Every person appointed to the office of *Principal Sudder Ameen* shall, previously to entering upon the execution of the duties of his situation, make and subscribe, *before the Judge* of the Zillah or City in which he may be employed, the *solemn declaration* required by Section ii, Regulation XVIII, 1817, to the same effect as the *oath* before required.—Reg. V, 1831, Sec. xvii, cl. 4; Reg. XVIII, 1817, Sec. ii, cl. 2.

The *Principal Sudder Ameens* will receive such *monthly allowances* as may be fixed by the Governor-General in Council. —Reg. V, 1831, Sec. xvii, cl. 3.

No person whatever, shall, by reason of place of birth, or by reason of descent, be, in any *Civil* proceeding whatever, *exempted* from the *jurisdiction* of any Principal Sudder Ameen. —Act XI, 1836, Sec. ii.

The Zillah and City *Judges* are authorized to *refer* to the *Principal Sudder Ameens* any original *suits* instituted in their Courts *for money* or other *personal* property or for the property or possession of land *or* other *real* property, *whatever may be the amount* or value of such property; *provided* that *no* suit be referred to a Principal Sudder Ameen

in which he himself, or his *relatives*, or *dependants* shall be a *party*.—Reg. V, 1831, Sec. xviii, cl. 1, and Act XXV, 1837, Sec. i.

In cases *where, by reason of the above clause, a suit cannot be referred* to a Sudder Ameen, because he himself or his relatives or dependants are a party to the suit, and where the Zillah and City Judges cannot refer such suit to be tried by any other competent authority, it shall be lawful for each of the Courts of *Sudder Dewanny* Adawlut to *direct*, by an order authenticated by the official signature of their Register, that the cognizance of *such suit shall be transferred to any other Zillah or City Court*, subordinate to the same Court of Sudder Dewanny Adawlut; and the *Judge* of such other Zillah or City Court *may* thereupon *refer* such suit in the same manner as if the same had been originally instituted in the Court of such other Zillah or City.—Act XXVII, 1838, Sec. ii.

NOTE.—The Clause referred to is the first of Sec. xviii, Reg. V, 1831, which relates to Principal Sudder Ameens only. It is therefore clear that the rule here provided for "Sudder Ameens" must be intended to apply to Principal Sudder Ameens. Perhaps the term "Sudder Ameens" is here used generally, and intends to *include* Principal Sudder Ameens as well as Sudder Ameens.

It shall be competent to every Zillah or City *Judge* to *refer* for trial and decision any *original suit* preferred under the provisions of Clause 1, Section xxx, Regulation II, 1819, of the Bengal Code, *(rent-free)* to any Principal Sudder Ameen, anything in the existing regulations to the contrary notwithstanding.—Art XXV, 1837, Sec. iii.

PRINCIPAL SUDDER AMEEN, AND SUDDER AMEEN; *Special local Jurisdiction.*

Whenever there shall be *more than one Principal Sudder Ameen, or more than one Sudder Ameen*, attached to the Court of any Zillah or City Judge, and *not having any special local jurisdiction*, it shall be the duty of such *Judge* to *appoint* from time to time the several *Moonsiffs' divisions*, which shall constitute the *special local jurisdiction* of each of such Principal Sudder Ameens and Sudder Ameens, and that each of such Principal Sudder Ameens and Sudder Ameens shall be empowered to take cognizance of all such suits as are mentioned in Sec. i, Act IX, of 1844, provided the landed or other real *property* to which the suit may relate, shall be *situated*, or in all other cases the *cause of action* shall have arisen, or the *defendant* at the time when the suit may be commenced, shall *reside* as a fixed inhabitant, within the limits of such local jurisdiciion as aforesaid.—Act IX, 1844, Sec. iii.

PRINCIPAL SUDDER AMEENS AND SUDDER AMEENS; *Not at the Sudder Station; Powers of.*

The *provisions* of Section xi, Regulation II, 1821, and of Clauses 2 and 3, Section ii, Regulation III, 1824, are declared *applicable to* Principal Sudder Ameens, or Sudder Ameens who may be *stationed at any other place than the fixed station of the Zillah or City Court*, or with jurisdiction within the limits of any Magistracy, Joint Magistracy, Collectorship, or Deputy Collectorship.—Reg. VII, 1832, Sec. xvii.

NOTE.—The following are the provisions referred to in the preceding Section with the addition of Clause 1, Sec. ii, Reg. III, 1824.

It shall be competent to the Governor-General in Council to extend the jurisdiction which may be vested in a *Register*, with regard to the cognizance and trial of regular suits under the rules in force upon the subject, to those portions of *other districts* in which such Register may be authorized to exercise the powers of *Joint Magistrate*.—Reg. III, 1824, Sec. ii, cl. 1.

NOTE.—This first clause is not extended by Section xvii, Reg. VII, 1832, to Principal Sudder Ameens and Sudder Ameens.

The provisions contained in the existing Regulations for the guidance of Principal Sudder Ameens and Sudder Ameens stationed at a distance from the Sudder station shall be equally applicable to the trial and decision of suits which may be instituted before them, or referred to them, under the foregoing Section—Reg. III, 1824, Sec. ii, cl. 2; Reg. VII, 1832, Sec. xvii.

NOTE.—This general expression, "existing Regulations" in the above second clause would seem necessarily to include the provisions of Regulation XXIV, 1814, and Secs. xi, xii, and xiii, of Regulation II, 1821, referred to in the preceding first clause, as they contained the rules "for the guidance of Registers stationed at a distance from the Sudder station;" and though many of those rules have been *superseded* by later enactments, they are all subjoined, those which are inoperative are *noted in brief*—those which are *in force*, or respecting which a doubt may exist, are given in *extenso*.

(Principal Sudder Ameens and Sudder Ameens to furnish reports.)—Reg. III, 1824, Sec. ii, cl. 3.

Superseded by Reg. VII, 1829.

Ministerial Acts of Registers.—Reg. XXIV, 1814, Sec. xi.—*Repealed by Sec. i, Act XIX, 1853.*

(Only declares modifications.) Reg. XXIV, 1814, Sec. xii, cl. 1, unnecessary.

(Governor-General in Council may appoint one or more additional Principal Sudder Ameens or Sudder Ameens.)—Reg. XXIV, 1814, Sec. xii, cl. 2. Superseded, as regards Principal Sudder Ameens by Sec. xvii, Reg. V, 1831; and as regards Sudder Ameens by Sec. xiii, Reg. V, 1831.

It shall further be competent to the Governor-General in Council to *station* the Principal Sudder Ameens, or Sudder Ameens, at *any place* or places *within* the jurisdiction of a *Zillah* or City *Court* of Dewanny Adawlut; and whenever a Principal Sudder Ameen, or Sudder Ameen, may be stationed at any place not being the Sudder station of the Zillah or City Court, the sittings and proceedings of such Principal Sudder Ameens and Sudder Ameens shall be held in a *convenient and open Court-room*, to be provided for that purpose at such place as Government may direct.—Reg. XXIV, 1814, Sec. xii, cl. 3; Reg. VII, 1832, Sec. xvii.

(Issue of process.) V. "RESISTANCE." Reg. XXIV, 1814, Sec. xii, cl. 4. Superseded as regards Principal Sudder Ameens by cl. 5, Sec. xviii, Reg. V, 1831; and as regards Sudder Ameens by cl. 4, Sec. xv, Reg. V, 1831.

The *Judges* of the Zillah or City Courts, and the *public Officers* acting under them, are required to *aid* and support the execution of *any process* which may be *issued by the Principal Sudder Ameens and Sudder Ameens;* and any *disobedience* or *resistance* to process so issued is hereby declared to be liable to the *same penalties as* disobedience or resistance *to* the process of a *Zillah* or City *Court*.—Reg. XXIV, 1814, Sec. xii,cl. 5; Reg. V, 1831,Sec. xv, cl. 4, and Sec. xviii, cl. 5.

The *Judicial powers* of a Principal Sudder Ameen or Sudder Ameen who may be *stationed at a place not being the station of the Zillah* or City *Dewanny Adawlut*, under the provisions of this Section, shall be the *same as those of* the Principal Sudder Ameen or Sudder Ameens *employed at the Station* of the Zillah or City Courts, viz., to try and decide according to the Regulations in force, any suits or matters which may be referred to them by the Zillah or City Judges, and which may be cognizable by such Principal Sudder Ameens or Sudder Ameens, *either* in their *ordinary* jurisdiction, *or under the special powers with which they may be vested, in conformity with Section* ix *of this Regulation.*—Reg. XXIV, 1814, Sec. xii, cl. 6; and Reg. VII, 1832, Sec. xvii.

NOTE.—*Sec. ix. Reg. XXIV, 1814, has not been extended to Principal Sudder Ameens and Sudder Ameens.*

(May be empowered to try summary suits for arrears of revenue.)—Reg. XXIV, 1814, Sec. xii, cls. 7 and 8. *Superseded by the general transfer of such summary suits to the Collectors.*—V. Reg. VIII. of 1831.

(Judge to refer to Register suits originating in his own jurisdiction as Joint or Assistant Magistrate.)—Reg. XXIV, 1814, Sec. xii, cl. 9. *Does not apply to Principal Sudder Ameens and Sudder Ameens.*

(Periodical *reports* to be furnished to Zillah Court.)—.

Reg. XXIV, 1814, Sec. xii, cl. 10. *Superseded by Reg.* VII, 1829.

Miscellaneous Duties of Principal Sudder Ameens.—Reg. XXIV, 1814, Sec. xii, cls. 11 and 12. V. Col. 2.

(Declares modifications.)—Reg. II, 1821, Sec. xi, cl. 1. *Unnecessary.*

(May receive original suits.)—Reg. II, 1821, Sec. xi. cl. 2. *Superseded by the powers given in that respect to Principal Sudder Ameens and Sudder Ameens generally by Sec. i, Act IX,* 1844.

(Register to report suits preferred. Judge to determine whether the case shall be tried by the Register or by himself.)—Reg. II, 1821, Sec. xi, cl. 3. *Superseded by Sec. xxiv. Reg. V,* 1831, *and Sec. i, Act ix,* 1844.

(Execution of decrees of Sudder Ameen and Moonsiff by Register.—Reg. II, 1821, Sec. xii. *Superseded by the powers granted to those officers to execute their own decrees to Principal Sudder Ameens by Sec. xxii, Reg. V,* 1831, *and to Sudder Ameens by Sec. vii, Reg. VII,* 1832.

(Registers to be paid by salaries not by fees.)—Reg. II, 1821, Sec. xiii. *Superseded by the rules which give salaries to Principal Sudder Ameens and Sudder Ameens.*

(Zillah Judge may bring up causes depending before the Moonsiff for trial before the Sudder Ameen)—Reg. XXIII, 1814, Secs. xlvii, and lxxiii (See "MOONSIFFS," p. 107.

In all matters of *form or practice* relative to the proceedings of a Principal Sudder Ameen stationed at any place not being the fixed station of the Zillah or City Court, for which *no express rule* may be prescribed this or any other Regulation, the Principal Sudder Ameen shall be *guided by the instructions of the Court of Sudder Dewanny Adawlut.*—Reg. XXIV, 1814, Sec. xii, cl. 12; Reg. VII, 1832, Sec. xvii.

PRINCIPAL SUDDER AMEENS: *Rules for; trials by.*

In the trial and decision of all *original suits* the Principal Sudder Ameens shall be guided *by the rules* established for the conduct of business in the *Courts of* the Zillah and City *Judges.*—Act VI, 1843, Sec. i.

The Principal Sudder Ameens are *themselves to investigate* the *suits* referred to them *in a public* Cutcherry or *Court-room,* and are *not to allow* their officers, servants, or *dependants or any person,* to *interfere therein.*—Reg. V, 1831, Sec. xviii, cl. ii.

(Language of decrees.)—Act XII, 1843, Sec. iii. (See "MOONSIFFS," pp. 95, 96.)

PRINCIPAL SUDDER AMEENS: *Executions by.*

Decrees passed in the Courts *of the Principal Sudder Ameens* shall be *executed by those Courts, under the general rules prescribed for* the execution of decrees passed by the Zillah and City *Judges; provided,* however, that in such cases an *appeal* from the orders of the Principal Sudder Ameens *shall*

lie, in the first instance, to the Zillah and City *Judges,* and *specially to the Sudder Dewanny Adawlut.*—Reg. V, 1831, Sec. xxii.

PRINCIPAL SUDDER AMEENS AND SUDDER AMEENS: *Suits which they can try, may be instituted in their Courts.*

All suits within the competency of a Principal Sudder Ameen or Sudder Ameen to decide, shall ordinarily be instituted in the Courts of those officers respectively.—Act IX, 1844, Sec. i.

PRINCIPAL SUDDER AMEENS; *Correspondence of.*

All official *correspondence* or communications addressed *by Principal Sudder Ameens* to the *Courts* of Justice, or to other public authorities, shall be *transmitted through the channel of the respective Judges of the Zillah and City Courts, except* in instances which may appear to require *immediate dispatch.* But in all cases in which such Principal Sudder Ameens may find it necessary to transmit any official communication to a Court or other public authority, in any other mode than through the Zillah or City Judge, they shall forward a *copy* of such communication, with *as little delay as possible,* for the information of the Zillah or City *Judge.*—Reg. XXIV, 1814, Sec. xii. cl. 11; Reg. VII, 1832, Sec. xvii.

PRINCIPAL SUDDER AMEENS: *Pleaders.*

It shall be competent to the Zillah and City *Judge* to authorize any of the *vakeels* of *his Court or* of those attached to the *Sudder Ameens, to practise in* the Court of the *Principal Sudder Ameens.*—Reg. V, 1831, Sec xviii, cl. 3.

PRINCIPAL SUDDER AMEENS: *Reports of business.*

The Principal Sudder Ameens shall furnish *such monthly and other periodical reports* of *business done* in their Courts *as the Sudder Dewanny Adawlut may be pleased to direct.*—Reg. V, 1831, Sec. xxiii.

PRINCIPAL SUDDER AMEEN: *Transferred Suits; Stamp of; Appeal of; Reasons of; Transfer to be recorded.*

Whenever a Zillah or City *Judge* shall *refer* for trial *to a Principal Sudder Ameen a suit* within the competency *of a Sudder Ameen* to decide, such suit shall be subject to the same rules in regard to *stamp duties,* and to the same rules in regard to *appeal as* the said suit would have been subjected to had it been referred to and tried by the *Sudder Ameen* in the first instance.—Act XXV, 1837, Sec. vii.

Whenever the Zillah and City Judges shall *retain,* on their own files any original *suit which* they are *authorized* by this Regulation *to refer* to a Sudder Ameen, or Principal Sudder Ameen, they shall record their *reasons* for doing so upon their proceedings.—Reg. V, 1831, Sec. xxiv.

PRINCIPAL SUDDER AMEEN: *Sudder Dy. Adawlut may transfer any cases to; Where appeal is to be.*

It shall be competent to

either of the Courts of *Sudder Dewanny Adawlut by* an order under the signature of the *Register* of such Court, to authorize the Judge of any Zillah or City Court subordinate to such Court of Sudder Dewanny Adawlut, to *transfer to a Principal Sudder Ameen any Civil proceedings*, whether miscellaneous or summary, which may be depending at the time when such order is issued, or be thereafter instituted in the Court of the said Zillah or City Judge; and all proceedings *so transferred shall be disposed of by* the said *Principal Sudder Ameen*, according to *the rules* prescribed in the Regulations for the guidance *of* the Zillah and City *Judges* in the like cases: *Provided*, however, that an *appeal* from *the* order of the Principal Sudder Ameen in such cases shall lie in the first instance to the *Zillah or City Judge*, and *specially* to the *Sudder* Dewanny Adawlut.—Act XXV, 1837, Sec. viii.

PROCESS. See "RESISTANCE" *for full details of.*

PROVINCIAL COURTS: *Transfer of business of.*

NOTE.—It was enacted by Sec. xxvii, Reg. V, 1831, that whenever the Governor-General in Council should introduce the provisions of that Regulation into any Zillah, the authority and jurisdiction of the *Provincial Court*, in original suits and appeals should *cease*. It was further declared in the preamble to Reg. II of 1833, as a consequence, that whenever that Regulation should have been extended to all the districts of any division, the further maintenance of the Provincial Court would only be required for the purpose of disposing of the arrears of business pending before it.

The Provincial Courts having now been all abolished, and the system established, by Reg. V, 1831, generally introduced, the rules for the distribution of the *business of the Provincial Courts* to the Zillah Courts, and to the Sudder Dewanny Adawlut respectively, may be considered as *formally disposed of*, and the provision respecting the distribution as extinct; *but* as the *principles* involved in those provisions must continue to *govern* the assignment of *many duties* to the one or the other of those jurisdictions, it seemed *desirable to retain the rules referred to, and to give them in this place.*

All original suits, all miscellaneous business arising out of original suits, not of the nature of *appeals*, and generally all matters connected with its functions as a Court of primary jurisdiction, which may be pending in any Provincial Court, shall be *transferred* to the files of the several *Zillah or City Courts*, in which, under the provisions of Section viii, Regulation III, 1793, the suit would be regularly cognizable, *provided* that the provisions of Regulations V, 1831, shall have been extended to such Zillah or City Courts. The Zillah or City Courts to which, under this provision, any *suits* may

be transferred, shall proceed with them in *all respects as* though they had been originally *instituted before them under Clause 3, Section xxvii, Regulation V*, 1831 —Reg. II, 1833, Sec iii, cl. 1

All precepts or orders which may have been issued to the Provincial Court by the Court *of the Sudder Dewanny Adawlut*, regarding any suit or matter pending before the Superior Court, shall also be *transferred to the Zillah or City Court* to which the suit or matter has reference, whether the provisions of Regulation V, 1831, may have been extended to such Zillah or City Court, or not, and the Court receiving such order shall carry it into effect in the same manner as if it had been addressed to itself. —Reg. II, 1833, Sec iii, cl. 2.

All appeals, regular, special, or summary, as well as all petitions for the admission of special appeals, petitions for *review* of judgment, or other *miscellaneous business* belonging to its jurisdiction as an Appellate Court, which may be pending before the Provincial Court on the date of its abolition, shall be *transferred to the file of the Court of Sudder Dewanny Adawlut*, and the Judges of the Court of Sudder Dewanny Adawlut are hereby empowered and required to dispose of them, under the general powers with which they are vested, in the same manner as though they had been regularly cognizable by, and referred to, or instituted before them. All *appeals* that may be so *pending before a Provincial Court* on the date of its abolition, of whatever amount, or from whatever authority preferred, are hereby declared *cognizable by* the Court of *Sudder Dewanny Adawlut*, anything in the existing Regulations to the contrary notwithstanding.—Reg II, 1833, Sec v.

QUINQUENNIAL REGISTERS: *Judge's duties as to.*

That the Quinquennial Register of landed *property paying Revenue to Government*, directed to be prepared by Regulation XLVIII, 1793, may be kept complete, the Zillah and City *Courts* are strictly *enjoined to transmit to the Collector* of the Zillah and the Board of Revenue a copy of *every decree that they may pass, or* which may be *sent to them* to be enforced by the Sudder Dewanny Adawlut, *regarding the proprietary right in, or possession of, any Zemindarry*, independent Talook, *or* other *land, paying Revenue immediately to Government, or in anywise concerning the possession of such land.* The Judge is to transmit the copy of the decree *within ten days* after he may pass or receive it. The decree is to be attested with the *signature* of the Judge and the *seal* of the Court, and is to be accompanied with a *short abstract* of it, specifying the *date* of the decree, the *names of* the Purgunnah, or *Purgunnahs* the *Talook* or Talooks, the *turf* or turfs, the *village* or villages, *or the portions of* each which may be

decreed, the name or names of the person or persons *last in possession*, the person or persons *to whom* the lands may be *decreed*, and if the land be decreed to two or more persons, the *shares* awarded to each person. —Reg. IV, 1793, Sec. ix; Reg. LVIII, 1795, Sec. iv.

REGISTRY: *Effects of; Rules for; Act I, of* 1843; *Act XIX of* 1843; *Registers not duly appointed.*

It shall be left to the *option* of all persons *to Register or not*, as they may think proper, any of the descriptions of deeds specified in Sec. iii, Reg. XXXVI, of 1793, that have been executed, or which may be executed, prior to the 1st of January, 1796. The *not registering* such deeds shall in *no* wise operate to the *prejudice* of the *rights* of the parties thereto, which shall remain the same as if this Regulation had never been enacted.—Reg. XXXVI, 1793, Sec. iv.

It shall also be left to the *option* of all persons to *Register* or not, as they may think proper, the several descriptions of *deeds specified in* cls. 4, 5 and 6 of Sec. iii, Reg. XXXVI, of 1793, whether executed previous or subsequent to the first January, 1796. The *not registering* of the deeds specified in those three clauses shall in *no* wise operate to the *prejudice* of the *rights* of the parties thereto, which shall remain the same as if this Regulation had never been enacted.—Reg. XXXVI, 1793, Sec. v.

Every *deed of sale or gift*, of the description specified in clause 2, Sec. iii, executed on or after the 1st January, 1796, and a memorial of which shall be duly *registered* according to this Regulation, shall, provided its *authenticity* be *established* to the satisfaction of the *Court*, *invalidate any other* deed of sale or gift for the same property, executed subsequent to the said date, which may *not* have been *registered*, and whether such second or other deed shall have been *executed prior or subsequent* to the registered deed.—Reg. XXXVI, 1793, Sec. vi, cl. 1.

Every *deed of mortgage* of the *description specified in* Clause 3, Sec. III, executed on or after the 1st January, 1796, and a memorial of which shall be duly *registered* according to Regulation XXXVI, 1793, and provided its *authenticity* be established to the satisfaction of the Court, shall be *satisfied in preference to any other* mortgage on the same property *executed subsequent* to the said date, which may *not* have been *registered*, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage.—Reg. XXXVI, 1793, Sec. vi, cl. 2.

It being the *object*, however, of the rules in the two preceding Sections to *prevent* persons being *defrauded* by purchasing or receiving in gift, or taking in mortgage, real property which may have been before sold, given, or mortgaged, subsequent to the 1st January,

1796, and as persons can never suffer such imposition when they are apprized of the previous transfer or mortgage of the property, it is to be understood, that *if any person* shall *purchase, receive* in gift, or take in mortgage, any *real property, knowing* such property, to have been *previously sold,* given, or *mortgaged* to any other person subsequent to the 1st January, 1796, *and* that the *deed* of sale, gift, or mortgage has *not* been *registered, and shall register his own deed,* in such case *the deed* of sale, gift or mortgage of such subsequent purchaser, donee, or mortgagee, which may have been registered, shall *not,* from the registry of it, *invalidate, or* be discharged in *preference* to the *unregistered* deed of sale, gift, or mortgage, first executed, provided the *authenticity* of the latter be established to the satisfaction of the Court.—Reg. XXXVI, 1793, Sec. vi, cl. 3.

Note.—This section is inoperative for the future under Acts I and XIX, 1843.

Regulation XXXVI, 1793, is in force from the 1st January, 1796, till the 1st of May, 1843. —Reg. XXXVI, 1793, Sec. xvi; Act I, 1843.

The registry of all *deeds* which may have been hitherto *duly executed* by a Zillah or City *Judge,* or *other covenanted servant,* with his sanction, *in the absence of the Register,* is declared to be of *equal validity, as if* it had been executed *by* the Zillah or City *Register.*—Reg. IV, 1824, Sec. vi.

Whereas Clause 3, Section vi, Regulation XXXVI, 1793, provides that *registered conveyances and other instruments affecting titles to land* and other interests therein, shall not *take precedence* of *unregistered* conveyances and instruments; And *whereas* a *complicated system* of law has arisen out of the construction which is to be given to the provisions regarding the *knowledge of parties, or notice* had by them in such cases; And whereas *much perjury* has been committed in investigations touching the fact of such notice or knowledge, and much of the time of the Courts has been occupied with such investigations; And whereas, in consequence of *forgeries, perjuries, fraudulent concealments and other practices, no person* purchasing or advancing money on the security of land *can safely rely* on the conveyances or other instruments affecting the title to such land or other interest therein affording, by means of their being registered, a *security* against conveyances or instruments being set up, as of *previous date, by unregistered claimants;*—Act I, 1843. Preamble.

It is hereby *enacted* that *all provisions* contained in any Regulation or Regulations, touching such knowledge or notice as aforesaid of previous *unregistered conveyances or* in-

struments affecting *titles to land* or other interests therein, shall be *repealed* from the 1st day *of* May, 1843, [and every conveyance or other *instrument* affecting titles to *land*, or any interest in the same, authorized by those codes respectively, to be registered, shall, so far as regards any lands to which the same relate, be *void as against any person claiming under any subsequent conveyance or other instrument duly registered, unless* the *prior* conveyance or instrument shall have been *duly registered, before* the registration of the *subsequent* conveyance or instrument; any alleged *notice or knowledge* of such prior conveyance or instrument *notwithstanding*. *Provided* always, that this Act shall not be construed to extend to any conveyance or other instrument made before the 1st day of May, 1843.]—Act I, 1843.

Act I, 1843, is *repealed, except* in so far as it repeals all provisions contained in any Regulation or Regulations, touching the *knowledge or notice* had by parties to registered conveyances and other instruments affecting titles to land and other interests therein, of the existence of unregistered conveyances or other instruments affecting such titles or other interests therein.—Act XIX, 1843, Sec. i.

From the 1st day of May, 1843, every *deed* of sale, or gift of lands, houses, or other *real property*, a memorial of which has been or shall be duly *registered* according to law, shall, provided its *authenticity* be established to the satisfaction of the Court, *invalidate any other deed* of sale or gift for the same property which may *not have been registered*, and whether such second or other deed shall have been executed *prior or subsequent* to the registered deed; and from the said day every deed of *mortgage* on land, houses, and other real property, as well as certificates of the discharge of such incumbrances, a memorial of which has been or shall be duly *registered* according to law, and provided its *authenticity* be established to the satisfaction of the Court, shall be *satisfied in preference* to any other mortgage on the same property which may not have been registered, and whether such second or other mortgage shall have been executed *prior or subsequent* to the registered mortgage, any *knowledge or notice* of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate *notwithstanding*. *Provided* always, that nothing in this Sec. contained shall be construed to extend to any deed or certificate made before the said 1st day of May, 1843.—Act XIX, 1843, Sec. ii.

No conveyance or other instrument affecting title to land, or any interest in the same, whether *made before or* after the said *1st day of May*, 1843, other than such deeds or certificates as aforesaid, are or shall

be in any respect *void for want of registration*, any Act, Regulation, or Law to the contrary notwithstanding.—Act XIX, 1843, Sec. iii.

A memorial of any *deed* shall be held to be *duly registered* according to law, in respect to any *property* which may be *situated in* any *one district*, as soon as the *original deed or a copy* thereof (as the case may be) shall have been *registered* in the manner provided by Secs. i, and ii, of Act IV, 1845, *in* the registry office of *such district, whether or* not a copy thereof have been *registered* in all or any of the *other districts*, in which the property to which the deed relates may be situated.—Act IV, 1845, Sec. iv.

Whereas instances have occurred of persons exercising the office of *Register* of deeds who have *not* been *duly appointed*, and whereas in some cases registration of deeds has been made on *other than Court days*, that is, on days other than those on which the Zillah or City Courts has been open for business, and *doubts* may therefore arise as to whether the registration of any deed registered by such persons not duly appointed, or registered on other than a Court-day, is *valid in law*, it is enacted as follows.—Act XVIII, 1847. Preamble.

Acts which may have been done in that capacity in any Zillah, subject to the presidency of Bengal, *by persons* who have had *charge of the office* of Register of deeds without being duly appointed to the said office, shall be and *shall be taken* to have always been *as valid* in law *as* such acts would have been *if* the said persons had been *duly appointed* to have charge of the said office. —Act XVIII, 1847, Sec. i.

All acts which may have been *done on other than Court-days* by the Register of deeds, or by the person having charge of the office without being duly appointed, in any Zillah subject to the presidency of Bengal, shall be and shall be taken to have always been as *valid* in law as such acts would have been if they had been done on a Court-day.—Act XVIII, 1847, Sec. ii.

REGISTRY: *by Cauzees; Copies; Fees.*

Cauzies are stationed at the cities of Patna, Dacca, and Moorshedabad, and the principal towns, and in the Pergunnahs, for the purpose of *preparing and attesting deeds of transfer and other law papers.*—Reg. XXXIX, 1793. Preamble.

The *head Cauzy and* the *Cauzies* stationed in the cities, Pergunnahs, and towns, are to *keep copies of all deeds, and law or other papers*, which they may draw up or attest, and are to affix thereto their *seals and signatures*. They are likewise to keep *a list* of all such papers; and in the event of their death, resignation, or removal, the list *and papers* are to be *delivered* complete to *their suc-*.

cessors.—Reg. XXXIX, 1793, Sec. vii.

The *Cauzies* stationed in the cities, towns, and Pergunnahs, are *not to exact any fees* for drawing up or attesting papers, *or for* the celebration of *marriages, or* the performance of any *religious duties* or ceremonies, which it has been customary for them to perform; *excepting* such as the parties concerned may *voluntarily* agree to pay, as has been hitherto the practice.—Reg. XXXIX, 1793, Sec. viii.

REGISTRY OF DEEDS: *Old Regns; Oath; Where it may be done; Deputy; Who may be Registers; Fees.*

NOTE.—The *provisions* of the following Regulations *affecting the validity of instruments executed at different times,* under the operation of the rules at such time in force, *the whole have been retained, though not all at present operative on instruments* executed *under the laws actually in force.*

An *office* for the registry of deeds shall be established in each Zillah, and in the cities of Patna, Dacca, and Moorshedabad. The Superintendent of the office shall make and subscribe the following *oath* or declaration previous to his entering on the execution of the duties of the office.

"I, A. B., solemnly swear (or declare) that I will truly and *faithfully* execute the office of Register of deeds for the Zillah or city of ———, and that I will *not,* directly or indirectly, derive any *pecuniary* or other *benefit* whatsoever from the said office, *excepting* such as is or may be *allowed* to me *by this Regulation,* or by any Regulation that may be hereafter passed by the Governor-General in Council: So help me God."—Reg. XXXVI, 1793, Sec. ii; Reg. XVII, of 1817, Sec. xiii.

In addition to the offices established under the provisions of Regulation XXXVI, 1793, *offices* for the registry of deeds may be established *at any Civil stations,* and may be placed by the orders of Government under the superintendence of any *officers resident* at such stations whom Government may nominate for that purpose.—Act XXX, 1838, Sec. ii.

The registration of deeds at any office of registry authorized by Act XXX, 1838, shall be subject to the payment of the same *fees* as are prescribed in Sec. xiv, Reg. XXXVI, of 1793, for deeds registered at an office established at the station of Zillah or City Court.—Act XXX, 1838, Sec. iii.

Section xv, Regulation XXXVI, 1793, and clauses 2 and 3; Section vi, Regulation XX, 1812, shall *not* be held *applicable to* offices and *persons* established and appointed for the registry of deeds *under this Act.*—Act XXX, 1838, Sec. iv.

The several *Registers* are permitted, in cases of absence from their stations, sickness or any other disqualification from personal attendance to the duties of their office, *to appoint (with the approbation of the*

Judge, a deputy, being *duly qualified,* to act for them; and such deputy, so appointed and approved, *after* taking a similar *oath* or affirmation to that prescribed for the Register, shall be *authorized to perform the several acts which the Register is hereby empowered to perform.* This permission, however, is to be expressly confined to the cases stated; and the *Registers,* when *present* at their stations, are *not* to be *allowed* to employ any *deputy,* but are to be required to discharge personally the duties of the office committed to them. —Reg. XXXVI, 1793, Sec. xv. (V. Act XXX, of 1838.)

The office for the registry of deeds in the several Zillahs and cities, which is provided for by Regulation XXXVI, 1793, shall generally be established *at the station of the Zillah or City Court,* and shall, as directed by the Regulations abovementioned be superintended by the *Register* of the Zillah or City *Court,* or where there may be *more Registers than one,* by the Register employed at the station of the Zillah or City Court, so long as he may continue to reside at such station; and as already required by the Regulations, in force, he shall *personally* discharge the duties of the office committed to him, whilst present at the station, unless prevented by *sickness, or otherwise;* in which case, as well as in all cases of temporary absence from the station, he is permitted, as heretofore, *with* the *approbation of the Judge* of the Zillah or City Court to which he may be attached, to appoint a *Deputy,* being a *Covenanted servant* of the Company, and duly qualified to act for him; who, *after* taking an *oath* or declaration similar to that prescribed for the Register of deeds, is authorized to perform the several acts which the register is empowered to perform.—Reg. IV, 1824, Sec. ii.

Whenever a Zillah or City *Register,* vested with the superintendence of the registry office may be *absent* from the station where the office is established, *without* having appointed a *deputy,* in pursuance of the foregoing section, the *Judge* of the station is hereby authorized to *appoint* some duly qualified *Covenanted servant* of the Company to act as *Deputy Register* of deeds, and the deputy so appointed, after being duly *sworn,* or making the required declaration, shall be authorized to perform the prescribed duties of the office.—Reg. IV, 1824, Sec. iii.

It shall, moreover, be the duty of the Zillah or City *Judge* to *appoint* a qualified person, being a *Covenanted servant* of the Company, to officiate as Register of deeds, *whenever,* from a *vacancy* in the office of Register, the *nomination* of a *Deputy cannot* take effect agreeably to the preceding Section.—Reg. IV, 1824, Sec. iv.

In the event of there being *no Covenanted servant* at the station, to whom, in the cases mentioned in the two preced-

ing sections, the Judge may deem it proper *to confide the office* of registering deeds, he is *himself* authorized and required *to perform* the prescribed *duties* of the office.—Reg. IV, 1824, Sec. v.

NOTE.—The *foregoing* rules are virtually *superseded* by the abolition of the office of Register to the Zillah Court, but they are *retained here because no other* distinct *provision* is made in the Regulations *for* the *appointment* of a Register of Deeds, nor for the substitution of a representative in the event of the Register's absence.

Whenever a Zillah or City *Judge* may deem the appointment of officers for the Registry of deeds advisable, he shall, having previously obtained the consent of the Governor-General in Council to that effect, be *competent to make over to the Principal Sudder Ameen at his station the duty of registering deeds*, subject to all the existing rules prescribed for that duty; and such Principal Sudder Ameen, *while so officiating*, shall receive the *fees* authorized by the Regulations for the performance of that duty.—Reg. VII, 1832, Sec. iv.

In case of the death or *absence* on leave *of any person appointed by Government* to register deeds under Act XXX, 1838, it shall be lawful for the Zillah *Judge* or other officer specially authorized by Government, *to appoint any person* whom he may think proper to take temporary charge of the office; and *to register deeds*, in the same manner as if such person had been appointed to the office by the orders of Government.—Reg. XXX, 1838, Sec. vi.

REGISTRY OF DEEDS: *What deeds may be registered; Indigo; Register Books; Copies; What to be done on registration; by Register; by Parties; Certificate; Inspection; False entries; Hours of Business; Fees; Inspection by Judge; Accounts; Index; Powers of Attorney; District where registry may be made; Proviso; Periods.*

First.—The Register is authorized and required to register memorials of *the following* deeds.

Second.—*Deeds of sale, or gift of* lands, houses, and other *real property*.

Third.—Deeds of *mortgage* on land, houses, and other *real property*, as well as *certificates of the discharge* of such incumbrances

Fourth.—*Leases* and *limited assignments* of land, houses, and other *real property*, including generally all conveyances, used for the temporary transfer of real property.

Fifth.—Wusseatnamahs or *wills*.

Sixth.—Written authorities from husbands to their wives to *adopt* sons after their (the husband's) demise.—Reg. XXXVI, 1793, Sec. iii.

The person holding the office of Register of deeds is likewise authorized and required to register *bonds, promissory notes and* generally *all obligations for* the payment of *money*.

Provided, however, that such registry shall only be made on the *application*, in person or by representative, of the *party by whom* the said bonds, promissory notes, or other obligations may have been *executed*. —Reg. XX, 1812, Sec. v, cl 1.

A *separate Register-book* shall be kept for the registry of obligations of the description of those specified in the preceding clause.—Reg. XX. 1812, Sec. v, cl. 2.

The *rules* contained in Secs. iii, and iv, shall be considered *applicable* to the registry of bonds, promissory notes, and other *obligations* for the payment of *money, with the restriction* already stated *respecting the party* on whose application such registry is to be made.—Reg. XX, 1812, Sec. v, cl. 3.

The Register of deeds for the conveyance of landed property is likewise authorized and required to register *engagements* contracted by *indigo-planters*, whether European or natives, with the ryots and others for the *delivery of the indigo plant*.—Reg. XX, 1812, Sec. iii, cl. 1.

A *separate Register-book* shall be kept *for* the registry of contracts of the description of those specified in the *preceding* clause.—Reg. XX, 1812, Sec. iii, cl. 2.

It shall be *optional* with persons contracting engagements for the delivery of indigo, to register them, or not, as they may judge proper; *but every engagement* contracted for the delivery of indigo after the 1st day of January, 1813, which may be *duly registered* according to the provisions of this Regulation, *shall, in case it be* in other respects a *legal* and *bonâ fide* engagement, be satisfied in *preference to* every *other* contract for the delivery of indigo, being the produce of the *same ground*, which may *not* have been *registered*, whether the last-mentioned deed shall have been executed previously or subsequently to the registered deed.—Reg. XX, 1812, Sec. iii, cl. 3.

Whenever any person may be desirous of procuring any engagement for the delivery of indigo to be registered, he shall attend, either in person or by an authorized representative, at the office of the register, with the *original deed; an exact copy of it, attested* by one at least of the parties to the instrument; and by one of the witnesses to the execution of it. The Register, on having ascertained by evidence on *oath* or affirmation, that the *original* was duly *executed*, and, having *compared* with it, the *copy* above required to be furnished, shall, without loss of time, specify on the back of the latter, the *date* and *hour* of the day on which it was presented for the purpose of being registered, and shall cause it to be *filed* according to the *order* of time in which it may have been *received;*—and *entered* in the *register-book* according to the same order; certifying in the said book, the hour and day on which the entry was completed and inspected by

him. The *entry in the register-book* shall, in all practicable cases, be made at *the time of endorsing the copy* required to be furnished; but the insertion of it shall, on *no account* be *postponed beyond the day* on which the *endorsement* may be made.—Reg. XX, 1812, Sec. III, cl. 4.

On completion of the *entry* in the manner above stated, the *Register* shall *return* the *original* deed to the person from whom it may have been received, with a *certificate*, under his signature, *endorsed* on the deed, specifying the *date* and the *hour* of *the day* on which it was registered, and the *page* on which it is entered in the register-book.—Reg XX, 1812, Sec. III, cl. 5.

The *certificate* of the Register, *endorsed* on the original deed, in the manner stated in the preceding clause, shall be deemed *in all Courts* of Judicature *sufficient evidence* of the *registry*.—Reg. XX, 1812, Sec. III, cl. 6.

The Register shall, on application being made to him, allow *all persons to inspect* the *copies of engagements* for the delivery of *indigo*, attested, endorsed, and filed in the manner prescribed in clause 4; *as well as the register-book* in which such engagements may have been entered.—Reg. XX, 1812, Sec. III, cl. 7.

In like manner, the Register shall, on application being made to him, *grant copies* of all engagements registered by him to persons whom they may concern; and *such copies*, in the event of the *originals* being *lost*, destroyed, or not forthcoming, shall be received as *sufficient evidence* of such deeds in all Courts of judicature whatever; *proof* being made by the subscribing witnesses to the original deed that the *original was duly executed*.—Reg. XX, 1812, Sec. III, cl. 8.

The Registers are *not warranted* in *registering deeds* of any description, *excepting* those *specified in Regulation* XXXVI, 1793, and in Regulation XX, 1812. The register-books shall, in future, be uniformly made of English *paper* and carefully *bound*.—Reg. XX, 1812, Sec VII.

The registry of all deeds shall be made *in the register-office of the Zillah or City in which the property affected by them may be situated, and if the property be situated in the jurisdictions of two or more of the Courts of Dewanny Adawlut, the deeds affecting it shall be registered in the office of each jurisdiction*.—Reg. XXXVI, 1793, Sec. VII (V. Sec. I, Act IV. of 1845, p. 162. Col. 1.)

Each species of deed shall be registered *in a separate book*, and the *Judge* of the Dewanny Adawlut of the Zillah or City, shall *note in his own hand-writing, on the last page of each book, the number of pages contained in each book and attest the note with his official signature*. No register shall be deemed authentic, excepting such as shall be so

paged and attested.—Reg. XXXVI, 1793, Sec. viii, cl. 1.

Every *deed* entered in a register-book shall be *numbered*, and the *date* of the month and the year, as well as the *time* of *the day* when every deed may be registered, shall be *noted in* the *margin of* the register-*books*, which shall be deposited among the *records of the Dewanny Adawlut*.—Reg. XXXVI, 1793, Sec. viii, cl. 2

The person or *persons executing the deed* or his or their authorized representative, with one or more of the witnesses to the execution of it, shall *attend* at the register's office, and *prove, by oath or affirmation before the Register, the due execution of the deed;* upon which the *Register* shall cause an exact *copy* of the deed to be *entered* in the proper register book, and, *after* having caused it to be *carefully compared* with the original, shall *attest* the copy with his signature, and shall also cause the *parties*, or their authorized representatives in attendance, to *subscribe* their signatures to the *copy*, in the presence of *two* creditable *witnesses* (whose names shall *also* be *subscribed* thereto), and shall then return the original, with a certificate under his signature endorsed thereon, specifying the *date*, and the *time* of the day on which such deed shall have been so registered, with reference to the book containing the registry thereof, and the *page* and *number* under which the same shall have been entered therein.—Reg. XXXVI, 1793, Sec. ix, cl. 2. *(Amended by* Sec. ii. Reg. XX. 1812.)

The *certificate* of the Register endorsed agreeably to the forms described in the preceding Section, shall be considered in all Courts of Justice to be sufficient evidence of the registry.—Reg. XXXVI, 1793, Sec. x.

The Register shall, on application being made to him, allow all persons to *inspect* the register books, as well as *grant copies* of all deeds registered by him to persons whom they may concern; and such *copies*, in the event of the originals being *lost*, destroyed, or not forthcoming, shall be received as *sufficient evidence* of such deeds in all *Courts* of Justice whatever, proof being made by the subscribing witnesses to the original deed that the original was duly executed.—Reg. XXXVI, 1793, Sec. xi.

If any person or persons shall at any time be suspected, on sufficient grounds for commitment, of *counterfeiting* or falsifying any *entry* in any of the register books ordered to be kept, *or* any *certificate*, such as is directed to be granted by this Regulation, he or they shall be prosecuted on the part of Government in the Criminal Court of Judicature, and the several *Registers* shall, as agents for the prosecution, *adopt every legal measure* in their power for the proof of the crime, and the *due execution of the laws against the offender*.—Reg. XXXVI, 1793, Sec. xii.

Every *register* shall *attend*.

at his office for the despatch of all business belonging thereto, during *certain specified hours* each day, between sunrise and sunset (Sundays and holidays excepted): and after determining the particular *hours of such attendance*, he shall affix a written *notice thereof* in some *conspicuous part of his office* for general information.—Reg. XXXVI, 1793, Sec. xiii.

The Register shall be allowed a fee of *two rupees* for every deed registered by him, to be *paid by the party causing the same to be registered*, and no more; a fee of *one rupee* for every *copy* furnished of a deed registered by him, to be paid by the party applying for such copy, and no more; and a fee of *half a rupee* for every *search* made on an inspection of the register, to be paid by the party inspecting the same, and no more. The register is authorized to *refuse* the official acts required from him *until these fees be paid*; and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite *stationery*. —Reg. XXXVI, 1793, Sec. xiv. (V. Sec. v, Act XXX. of 1838.)

Whenever any *person* may be *desirous* of procuring any *deed* of the description of those specified in Sec. iii. Reg. XXXVI, of 1793, *to be registered*, he shall *attend*, either in person or by an authorized *representative*, at the office of the register, *with* the original *deed and* an exact *copy* of it, attested by one at least of the parties to the instrument and by one of the witnesses to the execution of it. The Register, after having adopted the prescribed measures for *ascertaining* the *validity* of the original, and having *compared* with it the copy above required to be furnished, shall, without loss of time *specify on the back of the latter, the date and hour* of the day on which it was presented for the purpose of *being registered*, and shall cause it to be *filed* according to the order of time, in which it may have been received, and entered in the register book according to the same order, *certifying* in the said book the *day and hour on which the entry* was completed and inspected by him.—Reg. XX, 1812, Sec. ii, cl. 1.

On completion of the entry in the manner above stated, the Register shall *return the original deed to* the person from whom it may have been received, with a *certificate* under his signature *endorsed on the deed*, specifying the *date and the hour* of the day on which it was registered, and the *page* on which it was entered in the register book.—Reg. XX, 1812, Sec. ii, cl. 2.

The *entry* in the register-book shall, in all practicable cases, be *made at the time* of *endorsing the copy* required to be furnished; but the insertion of it, shall, on no account, be postponed beyond the day on which the endorsement may be made.—Reg. XX, 1812, Sec. ii, cl. 3.

The Register shall, on application being made to him, *allow all persons to inspect* the copies of deeds attested, endorsed, and filed in the manner prescribed in the preceding Clause, as well as the Register-books.—Reg. XX, 1812, Sec. ii, cl. 4.

In like manner the Register shall, on application being made to him, *grant copies* of all engagements registered by him to persons whom they may concern; and *such copies*, in the event of the *originals* being *lost* destroyed, or not forthcoming, shall be received as *sufficient evidence* of such deeds in all *Courts* of judicature whatever, proof being made by the subscribing witnesses to the original deed, that the original was duly executed.—Reg. XX, 1812, Sec. ii, cl. 5.

The Register shall be allowed a *fee* of *two* rupees for every *indigo engagement* registered by him, to be paid by the party causing the same to be registered, and no more; a fee of *one rupee* for every *copy* furnished of a deed registered by him, to be paid by the party applying for such copy, and no more; and a fee of *half a rupee* for every search made on an *inspection* of the Register-book, to be paid by the party inspecting the same, and no more. The Register is authorized to refuse the official acts required from him until these fees be paid; and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.—Reg. XX, 1812, Sec. iv. (Modified by Sec. v, Act XXX. 1838.)

Such part of Section viii, Regulation XXXVI, 1793, as requires that each leaf of the different Register-books shall be attested by the Judges of the Zillah or City Court, is hereby rescinded.—Reg. XX, 1812, Sec. vi, cl. 1. (V. p. 158, Col. 2.)

In order to establish a proper control over the conduct of the public officers entrusted with the discharge of the duty of registering deeds, it is hereby enacted, that the *endorsement on the copies* required to be kept of the said deeds by the provisions of this Regulation, *and* the *transcripts* thereof in the Register-book, shall be both *countersigned by the Judge* of the Adawlut *within one month* of the date of registry, unless prevented by absence; and, in that case, within one month after his return.—Reg. XX, 1812, Sec. vi, cl. 2. *(Modified by Secs. i, and iv, Act XXX.* 1838.)

On affixing his name to the copies of the deeds and to the Register-books, it shall be the duty of the *Judge* to *report* to the *Secretary to Government* in the Judicial Department, for the information of the Governor-General in Council, any *errors or irregularities*, or any *deviation from the established regulations*, which he may have discovered in the conduct of the business confided to the Register of deeds or to his native

officers.—Reg. XX. 1812, Sec. vi, cl. 3. (V. Note above.)

It shall be the duty of the Registers to keep an *accurate account*, in the English language, of the *fees* received by them, on account of the Registry of deeds.—Reg. XX, 1812, Sec. viii.

It shall likewise be the duty of the Register to prepare, as soon after the expiration of each English year as possible, an *index to the Register-books.* —Reg. XX, 1812, Sec. ix.

The Registers are also required, not only to *preserve* with care the *powers of attorney* which may be produced by persons attending on the behalf of others, to procure deeds to be registered, but likewise to cause all such *powers* to be regularly *entered in a separate book to* be kept for that purpose. —Reg. XX, 1812, Sec. x.

The Deputy or *Officiating Register* appointed under Regulation IV, 1824, shall receive, during the time of his officiating, the *fees* authorized by the Regulations; but whenever the *Judge* may perform the duty, under Sec. v, Reg. IV, of 1824, the net amount of such fees, after defraying the necessary expense of the establishment, shall be carried to the *credit of Government.*—Reg. IV, 1824, Sec. vii.

Persons desirous of registering deeds written in any *European language* at any office of registry in the territories subject to the presidency of Bengal, shall be required to pay for transcribing the same according to the established *rates of section writing*, in addition to the fees prescribed by Sec. xiv, Reg. XXXVI, of 1793; Reg. XXX, 1838, Sec. v.

Deeds may be registered in *any registry office, whether* such office be *in the district* where the property or any part thereof to which such deeds relate is situated, *or not.*—Act IV, 1845, Sec. i. (V. p. 158, Col. 2.)

Provided always, that when the registry office in which a deed is registered is in a district, in which the whole of the property to which such deed relates is not situated, it shall be the duty of the Register of the said office to forward *to the office of the district* or districts in which the whole or any part of such property is situated, a *copy of the deed* as registered and endorsed in his office, the said copies to be furnished and attested as prescribed in Sec. ii, Reg. XX, of 1812, and the Register of *any office receiving such copy so forwarded, shall duly register* the same, as if it had been presented to him in the first instance by the party registering.—Act IV, 1845, Sec. ii.

For every such *copy* required for transmission to any office as aforesaid the party registering shall pay the *usual fee*, and the *Register receiving the same, shall duly account for the same, to the several Registers to whose offices copies may be transmitted for registry.*—Act IV, 1845, Sec. iii.

The *Register-books* of offices established under Act XXX, 1838, shall be *deposited*, in the

Lower Provinces of the Presidency of *Bengal, among the records of the Magistrates or Joint* Magistrates, and in the *North Western Provinces* of the said presidency, among the records of the *Collectors* of the stations where such offices have been or shall be established.—Act XI, 1851.

REGULATIONS; *Rules as to.*

Every rule or order that may be passed by the Governor-General in Council *regarding* the administration of *justice*, the imposition or levying of *taxes or* of duties on commerce, the collection of the public *Revenue* assessed upon the *lands, the rights* and tenures of the proprietors and cultivators of the *soil*, the provision of the Company's *Investment*, the manufacture of *Salt or Opium*, and generally all Regulations *affecting* in any respect the rights, persons, or property of the *natives*, or any individuals who may be amenable to the Provincial Courts of Judicature, shall be *recorded* in the Judicial Department, and there framed into a Regulation, and printed and published as hereafter directed.—Reg. XLI, 1793, Sec. ii.

The Regulations passed *annually* shall be *numbered*. The *first* Regulation enacted in each year shall be numbered *one*, and all subsequent Regulations according to the order in which they may be passed. The *number* of each Regulation, and the *year* in which it may be enacted, is to be inserted at the *top of every page*, as in this Regulation. *i. e.* Reg. XLI, 1793, Sec. iii.

Every Regulation shall have *a title* expressing the subject of it as concisely as possible, similar to the title prefixed to this Regulation. *i. e.* Reg. XLI, 1793, Sec. iv.

First.—There shall be a *preamble to* every Regulation, stating the reasons for the enaction of it.

Second.—If any Regulations shall repeal or modify a former Regulation, the *reasons for* such *repeal or modification are to be detailed in the preamble.* —Reg. XLI, 1793, Sec. v.

Every Regulation is to be divided into *Sections*. Each *Section* shall be *numbered* according to the order in which it may occur. The *preamble* is to be considered as the *first* Section. The Sections, where necessary, may be divided into *clauses*; in which each *clause is to be numbered* in the same manner as the clauses in Section v, of *this* Regulation. *i. e.* Reg. XLI, 1793, Sec. vi.

In framing a Regulation, if there shall be occasion to *refer to any clause or Section of a* Regulation, or any Regulation at large, as, for example, the second clause of the fifth Section, or the fifth *Section* of this Regulation, or this Regulation generally; the reference, in each case, shall be *expressed* in the *following manner:* clause second, Section v, Regulation XLI, 1793;—Section v, Regulation XLI, 1793;—Regulation XLI, 1793.—Reg. XLI, 1793, Sec. vii.

The *subject* of every Section and clause shall be inserted opposite to it in *the margin*, as concisely as possible.—Reg. XLI, 1793, Sec. viii.

The *Civil and Criminal Courts* of Justice are *to be guided* in their proceedings and decisions *by the Regulations* which may be framed and transmitted to them, as above directed, and by no other.—Reg. XLI, 1793, Sec. xiii.

In the *English drafts* of Regulations, the same designations and terms are to be applied to the same descriptions of persons and things, in order that rights, property, tenures, privileges, deeds, Courts, process, offices, officers, and generally all persons and things, may be *uniformly described* by the same designations and terms throughout the Judicial Code.—Reg. XLI, 1793, Sec. xiv.

Every Regulation, with the *marginal notes*, shall be translated into the Persian and Bengali languages by the (*Persian*) translator to the Government, or such other person as the Governor-General in Council may expressly appoint for that purpose. The *number* of the Regulation and the year in which it may be passed, and the *numbers of the Sections and clauses* shall be *inserted* in the *translates*, in *the same manner*, as in the English drafts of the Regulations.—Reg. XLI, 1793, Sec. xv.

The translator is to be particularly careful to *preserve in the translates the same uniformity in the designations* and terms applied to persons and things, as is directed with regard to the English code. Whenever he shall have occasion to insert the *designation or name* of any person or thing that he may have reason to believe may *not be intelligible to the natives* in general, and which may not have been used and explained in the translates of any former Regulation, he shall, in the first passage in which such word or term may occur, *subjoin an explanation* of it, that upon its recurring, no doubt may be entertained as to *its true meaning and import*.—Reg. XLI, 1793, Sec. xvi.

It shall be the duty of the *translator to revise the proof sheets* of the printed translates, and to correct all errors of the press.—Reg. XLI, 1793, Sec. xvii.

The translator is to translate the Regulations into *plain and easy language*, and in all possible cases to reject words not in common use. As far as may be consistent with the preservation of the true meaning and spirit of the Regulations, he shall adopt the *idiom* of the native languages, instead of giving a close verbal translation of the English drafts, which must necessarily render the translates obscure, and often unintelligible to the natives.—Reg. XLI, 1793, Sec. xviii.

One part of a Regulation is to be *construed by another*, so that the whole may stand.—Reg. XLI, 1793, Sec. xix.

If any *Regulation* shall be passed, *differing from a former*

Regulation, either wholly or partially, the *new Regulation* is to be considered as a *virtual repeal of the old* one, as far as it may differ from the latter; *provided* that the *new* Regulation be couched in *negative* terms, or by its matter necessarily imply a negative.—Reg. XLI, 1793, Sec. xx.

If a Regulation that *rescinds another Regulation, is itself afterwards rescinded,* the *original Regulation* is to be considered *as revived,* without any formal declaration to that purpose.—Reg. XLI, 1793, Sec. xxi.

On receipt of translations of the Regulations in the country languages, the Zillah and city Judges and Magistrates shall cause the same to be *publicly read in their Cutcherries;* and shall require the native *pleaders* of their respective Courts to *take copies* of the translations of any Regulations which relate, directly or indirectly, to the administration of *Civil justice.* The Judges shall also cause the *copies* which they are required to furnish to the *Cauzees* stationed in the several Towns and Pergunnahs within their respective Jurisdictions, to *be read and published,* for general information, at the Cutcherries of the *Moonsiffs,* and of the Police Darogahs or *Tehseeldars* in charge of the Police.—Reg. XXXIX, 1793, Sec. x.; Reg. XI, 1806, Sec. xii, cl. 2.

Production of a Government Gazette is proof of an "ACT" *having passed.*—Act X, 1835.

REGULATION: *Constructions of.*

In all instances wherein a precept issued by a Zillah or Sessions Court to a subordinate Civil or Criminal Court or Magistrate, shall appear to the subordinate Judge or Magistrate to be contrary to, or unwarranted by, the existing Regulations, he is authorised to state to the Zillah or Sessions Court in what respect he considers their *precept to be in deviation* from the Regulations, and suspend an execution *till receipt of a second precept* in reply to his objections. *But if the second precept* of the Zillah or Sessions Court, in reply to the objections of the subordinate Judge or Magistrate, shall *confirm their first precept* in whole or in part, and shall require the subordinate Judge or Magistrate to execute the same without further reference, he shall *immediately comply* with such requisition. In case, however, the *second precept* of the Zillah or Sessions Court should *not satisfy the subordinate* Judge or Magistrate that the Regulations have been rightly construed by the Zillah or Sessions Court, he *is at liberty, at* the same *time* that he *certifies* the *execution* of the order of the Zillah or Sessions Court, *to request* that they will *transmit* copies of their precepts to him and his returns thereto, with such other *papers,* as may be necessary for the information of the circumstances of the case, *to* the Court of *Sudder Dewanny* Adawlut or the Court

of Nizamut Adawlut, according as the case in question may relate to the Civil or Criminal Department, and the Zillah or Sessions Court shall accordingly transmit such papers, as requested, without any unnecessary delay. Provided nevertheless, that nothing in this Regulation be understood to authorize any subordinate Judge or Magistrate to question the propriety of any order issued by a Zillah or Sessions Court, in cases clearly left to the discretion and judgment of the Zillah or Sessions Court by the Regulations; the *reference* to them, and eventually to the Courts of Sudder Dewanny and Nizamut Adawlut, meant to be authorized by this Regulation, *being confined* to cases in which the *sense of the Regulations* from a difference of construction or otherwise, may appear *doubtful* and uncertain.—Reg. X, 1796, Sec. ii.

In all instances wherein a reference to the Court of *Sudder Dewanny* Adawlut or the Nizamut Adawlut may be made under the preceding rule, the determination of those Courts, who are empowered to *prescribe the forms and conduct* to be observed by the Zillah and City Courts of Dewanny Adawlut, the Sessions Court, and the Zillah and City Magistrates, in all cases provided for by the Regulations, agreeably to their construction thereof, is to be held *final and conclusive*.—Reg. X, 1796, Sec. iii.

Should any *doubt occur to the Sudder* Dewanny or the Nizamut Adawlut with respect to the *meaning* of any part of the Regulations, or should it appear to them, on occasion of any reference from the Zillah or Sessions Court, or the subordinate Courts or the Zillah or City Magistrates, that the *Regulations do not sufficiently provide* for the case submitted to their decision, they are to *report* the circumstances of it to the Governor-General in Council, *that a new Act* may be framed in explanation of such doubt.—Reg. X, 1796, Sec. iv.

RENT FREE LANDS; *Copies of decrees as to, to be sent to Collectors.*

The *Judges* of the Zillah and City Courts shall *furnish the Collectors* of the districts in which the land may be situated and the Board of Revenue, with a *copy of every decree* in suits between individuals which they may pass, or which may be sent to them by superior Courts to enforce, *by which the right in, or possession of, any lands held exempt from the payment of public revenue,* under whatever description of grant the same may be so held, may be *affected,* in order that the Collectors may be enabled to make the necessary entries of the alterations in such right or possession, to be inserted in the *quinquennial registers* of lands held exempt from the payment of Revenue, directed to be kept by Regulations XIX, and XXXVII, 1793, and XLI, XLII, 1795. The copies of such decrees shall be transmit-

ted by the Judge *within twenty days* after the same may be passed or received by him.—Reg. LVIII, 1795, Sec. iii.

RESISTANCE *of process.* PROCESS. *Officers for; Rules for.*

NOTE.—There is no specific enactment establishing the office of Nazir of the Zillah Courts, but it is recognized throughout the Regulations as existing.

The *Nazirs* of the Civil and Criminal Courts *are to appoint* their own naibs or mirdahs, and the *peons* of the Court to which they may respectively belong, and to *remove* them *at* their *pleasure.*—Reg. XIII, 1793, Sec. ii.

The Judges and Magistrates of the several Zillahs and Cities shall select from their lists of *peons* employed by their Nazirs in the execution of Civil and Criminal process *who do not receive a monthly salary* from Government, and also from the lists of peons proposed to be employed by the Nazirs of the Moonsiffs, Sudder Ameens, or Principal Sudder Ameens in the execution of Civil process, and shall cause their names *to be registered* with the following *particulars*, viz., the names of their fathers, their age and places of abode, and a concise description of their persons; and the rules *mutatis mutandis*, contained in cls. 4, 5, and 6, of this Section shall be applicable to the peons who may be employed under the foregoing rule.—Reg. XXVI, 1814, Sec. xiv, cl. 2; Reg. VII, 1832, Sec. v, cls. 2 and 4; Act XIV, 1845, Sec. ii.

The *Nazirs* are hereby strictly *prohibited*, under pain of immediate dismission, from *employing* any person *not registered* in the mode above prescribed, *and not* being an officer *on the public establishment*, in the service of any process, Civil or Criminal, or in the execution of any order or official act whatever, without a special authority from the Judge or Magistrate or other public Officer competent to give such directions; and in cases wherein process is served by an Officer of the Court, and not by the party himself, the Moonsiffs, Sudder Ameens, and Principal Sudder Ameens are strictly prohibited from employing any person not registered in the mode above prescribed, without the special authority of the Judge.—Reg. XXVI, 1814, Sec. xiv, cl. 3; Reg. VII, 1832, Sec. v, cl. 3.

The peons who may be registered as above required shall be furnished with an uniform belt, or such other *badge of office*, at the discretion of the Judge, as shall suffice *to distinguish* them *from the Chuprasies* on the fixed establishments. The expense of such badge shall be defrayed out of the tullubana of the peon receiving the same. The Judges and Magistrates of the several Zillah and City Courts are to frame *a table* for regulating the account *of tullubana*, demandable on the service of process Civil and Criminal, according to the rates prescribed by the Regulations or establish-

ed by usage. The table shall contain a statement of the several *Police Jurisdictions* or other more convenient *local divisions, the computed distance of the centrical part* of such local division *from the Sudder station,* and the *number of days* for which tullubana is to be allowed on the serving of process within each local division, calculated on the computed distance of the *centre of each local division from* the *Sudder station.*—Reg. XXVI, 1814, Sec. xiv, cl. 4.

The table so framed shall be *suspended for general information in the Cutcherries* of the Judge and Magistrate, the Moonsiffs, Sudder Ameen, and Principal Sudder Ameen, and of the Collector of the district; and *no tullubana* shall be allowed, in any instance *beyond the rates,* or for a greater number of days, than may be prescribed in such table, *without a special written order* from the Judge or Magistrate, or other public officer competent to pass the same.—Reg. XXVI, 1814, Sec. xiv, cl. 5; Reg. VII, 1832, Sec. v, cl. 5; Act XIV, 1845, Sec. ii.

The *amount* of tullubana which may be demandable according to the table mentioned in the preceding rule, shall be *specified on the back of each summons or* other process, and the amount shall be paid by the person taking out the process, to the Nazir, previously to the execution of such process. A receipt shall be endorsed on the process in each instance by the Nazir, specifying the amount and the person from whom it was received.—Reg. XXVI, 1814, Sec. xiv, cl. 6.

When *two or more processes* may be served by *one peon,* the Judge, Magistrate, Moonsiff, Sudder Ameen, Principal Sudder Ameen, or other *officer who may order the same* to be served, shall *determine in what proportions* the fixed rates of tullubana shall be paid by the parties respectively, and shall sign an order to that effect, on the face or back of the process. —Reg. XXVI, 1814, Sec. xiv, cl. 7; Reg. VII, 1832, Sec. v, cl. 5; Act XIV, 1845, Sec. ii.

When the *process* shall have been *executed and returned* according to the preceding rules, the *Nazir shall pay to the peon,* who may have served the same, *three-fourths* of the amount of the tullubana received by him on account of such process; and the *Nazir* shall be entitled to appropriate the *remaining one-fourth* of the tullubana to his own use.—Reg. XXVI, 1814, Sec. xiv, cl. 8.

The Judges, Magistrates, Moonsiffs, Sudder Ameens, and Principal Sudder Ameens, are required to take *every possible precaution,* and to give all practicable attention for the purpose of *preventing illegal or undue exactions* of diet or subsistence money, under the name or pretence of tullubana. —Reg. XXVI, 1814, Sec. xiv, cl. 9; Reg. VII, 1832, Sec. v, cl. 5; Act XIV, 1845, Sec ii.

Whenever the Judge of a Civil Court, or a Magistrate or

Joint Magistrate, or any other *European public officer*, authorized by the Regulations in force to issue process of arrest, or other judicial process, Civil or Criminal, upon the person or property of individuals amenable to their respective jurisdictions, may, for any special reason, *deem it necessary to be personally present* at the execution of such process, and to see that the same be duly executed in the manner prescribed by the Regulations, it shall be *competent* to the public officer who may have issued the process, *to attend personally* for the purpose above mentioned, and to adopt or direct any legal measures that may be necessary for the due execution thereof —Reg. I, 1825, Sec II.

Execution of process within Military Limits

Within a garrison, cantonment, military station, or military bazar, (the process of the Supreme Court excepted,) the person serving is to take the *process* to the officer commanding or *senior officer*, who is to *back* the same with his signature, and aid execution But nothing in this law is to prevent a civil officer serving summons, subpœna, or citation, *without arrest* —Reg. XX, 1810, Sec. XIX.

Every process, rule, order, or decree of the Civil Courts *is to be immediately served* or executed, *without* application to any person, or the *interference of any individual whomsoever*, according to the requisition of *it*, within the limits of the special jurisdiction of each Court —Reg IV, 1793, Sec. XIII

All orders and process of the Civil Courts in original suits which may be directed to be served or executed on any person are to be written or printed in such *language* as the Governor-General in Council shall direct, and are to be *sealed* with the seal of the Court and signed by the Judge. When a summons, or any process is addressed to a defendant or a witness in a cause, or any other person who may not reside, or be present at the place, at which the Court may sit, and for the serving or execution of which a peon or peons may be necessary, *each peon is to be paid by the party, in whose behalf* the summons or *process may issue, four annas* per day for his subsistence; *excepting* in districts where *custom* may have fixed the subsistence-money of peons at a *lower rate*, in which case the lower rate, and no more, is to be paid The *name* of each peon deputed to serve the process, the amount of his subsistence-money, and the *number of days* for which he is to receive it, is to be *endorsed* on the writing. *No greater* number of *peons than two* are *to be deputed* to serve or *execute any process* of the Courts, and *one peon only* is to be sent, *excepting* in cases in which the Judges may think two peons necessary. —Reg IV, 1793, Sec. XX, but V p 165, cls 4, 5, Sec XIV, Reg. XXVI, 1814. N. B. Act

XXIX, 1837, abolished Persian.

NOTE.—In the Regulations of 1793, parallel rules were enacted for the executions of the Civil process and orders of the Provincial Courts by the Zillah Courts, and of the Sudder Dewanny Adawlut by the Provincial Courts. The rules are here given, as common to the relative powers of the Sudder and Zillah Courts; they now standing to each other in the same relation in which the Sudder and the Provincial Courts formerly existed; and the Zillah Court taking the place of the Provincial Courts as towards the Courts of the Uncovenanted Judges.

All orders and *process, in appeals,* which may issue from the Civil Courts, are *to be directed to the Court in which the original cause* shall have been instituted. Every such order or process is to limit a *certain time* in which it is to be served, executed, and returned to the Court from which it was issued.—Reg. V, 1793, Sec. xv; and Reg, VI, 1793, Sec. xiii.

In all cases in which process, either to a party or witness, and all process whatever, and every rule or order for the execution of any decree or final order, or any order relating to a cause depending in the Sudder Dewanny Adawlut, which may be directed by such Court to any Zillah Court, or depending in any Zillah Court which may be directed to one of the Courts of the Uncovenanted Judges, the Court to which the process may be directed, is to *execute the order* contained in the process, rule or order, and *return it so executed within the time limited, or* return to the superior Court good and *sufficient reason why it has not been served* or executed. When any process, rule, decree, or order for the execution of any decree or final order, or any order, whatever, shall be transmitted by the superior Court to a lower Court to be served or executed, the *return* to such process, rule, order, or decree is to be made by the Court, either *by endorsement* on the process, rule, order, or decree; or to be *written on a paper firmly annexed to it;* and if the return be made in the last mentioned manner, there is to be an *endorsement* on the process, rule, order, or decree, referring the Superior Court to the return contained in such annexed paper; and the Court is to cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of the Court. And in all cases, in which the *superior Court may transmit any orde* or process to be served or *executed by a lower Court,* against a party in a cause, and the party on whom it is to be served or executed is not, after diligent search, to be found, or shall have absconded, or shut himself up in his own, or an house or building, or *retire to any place, so that the process cannot be served* upon him, the Court to which the process may

be directed, is to cause to be *fixed up in some conspicuous part of* the room, in which *the Court* may be held, a writing containing a *copy of the order* or process, and *a notice*, that if the party shall not obey the exigence of it, within the time limited, the Superior Court will, without further notice, process, or order, proceed *ex parte*, to hear, try, and determine the cause to which such process or order may relate; and the Court is likewise to cause a copy of such writing to be fixed up, with all practicable despatch, *on the outer door of the house, in* which the party may have *commonly dwelt*, or in *some conspicuous place in the village* in which he may have usually resided, and to return to the Superior Court, in the manner before directed, how he has executed the process.—Reg. V, 1793, Sec. xvi; Reg. VI, 1793, Sec. xiv.

If a Lower Court to which any process, rule, or order of the Superior Court may be transmitted, for the purpose of being served or executed on any party, *shall return* that the party has absconded, or shut himself up in his own or any house or building, or retired to any place, so that the *process could not be served* upon him, or that he was *not*, after diligent search, *to be found*, and that they had *caused* the writing *to be fixed up* in the places and manner directed, and the party shall *not appear and obey* the exigence of the process, rule, or order, the Superior Court is to proceed *ex parte* to try and determine the cause in which the process, rule, or order shall have issued, in the same manner, as if the party had appeared and obeyed the exigence of the process.—Reg. V, 1793, Sec. xvii; Reg. VI, 1793, Sec. xv.

If a Zemindar, independent talookdar, or *other actual proprietor of land*, or a *dependent talookdar*, shall *resist or cause* to be resisted, *any* process, rule *order*, or decree *of a* Zillah or City Court, or of the Sudder *Dewanny Adawlut*, the Court, on proof of the resistance being made to it's satisfaction, is to cause the offender to be *summoned to answer* to the charge. If the offender shall abscond, or shut himself up in his own or any house or in any building, or retire to any place, so that he *cannot be served with the summons*, the Court is to proceed against him, in the manner directed with regard to other persons absconding or acting as above specified, so that they cannot be served with the process of the Court. *If* the offender shall *not appear* within the prescribed time, *or* if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the Court, that he *is guilty of the charge*, the Court is to decree that the offender, shall, from the date of the decree, *forfeit* his zemindarry, talook, or other *estate*, in which the resistance may

have been made; or if the resistance shall have been made *out of the limits of the estate* of the offender, the zemindarry, talook, or *other landed property* that he may possess, within the jurisdiction of the Court, the process of which may have been resisted; *or if the offender possess no* zemindarry, talook, or other *landed property* within the jurisdiction of the Court whose process he may have resisted or cause to be resisted, so that no decree of forefeiture can pass against him, the offender, on proof of the charge against him, shall be *liable to a fine* to Government, to be levied under the provisions of Sec. xxv, Reg. IV, of 1793. The Zillah Court, if the cause shall not be appealed, within the time limited for preferring appeals, or the Sudder Adawlut, after passing the decree, is immediately to forward a copy of it's decree and proceedings respecting the charge, to the Governor-General in Council. If the offender *shall appeal to the Sudder* Dewanny Adawlut within the prescribed period, and the Sudder Dewanny Adawlut should confirm the decree of the Zillah Court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the Zillah Court to the Governor-General in Council. It shall be at the option of the *Governor-General in Council*, either to order it to be executed, or to *commute the forfeiture for such fine, as*, upon a consideration of the situation and circumstances in life of the offender, he may *think adequate to* the offence for which the decree may be passed. In the event of the Governor-General in Council commuting the forfeiture for a fine, the Court, upon receiving notice of the fine that he may impose, is to *levy the amount* of it by the same process, *as is prescribed for enforcing decrees* of the Court. In *the* event of the Governor-General in Council ordering the decree to be executed, the Court is to issue a precept, requiring the *Collector* of the Revenue of the Zillah *to depute* an *Ameen* with a proper establishment of Officers (whose allowances are to be specified in the precept) *to sequester the lands*, and collect the rents and Revenues. *If the lands* of the offender shall be deemed by the Court *too inconsiderable to admit* of their being charged with the *expense* of an Ameen, they are to direct a precept to be issued to the Collector of the Zillah, to order the *nearest Tehseeldar*, or any other Officer who may be employed under him in the business of the collections, to *take charge* of the lands. The Officer is to perform the duties prescribed for Ameens in such cases, and under the same restrictions and penalties.—Reg. IV, 1793, Sec. xxii; Reg. VI, 1793, Sec. xxiv; Reg. IX, 1799, Sec. ii.

If the *decree*, adjudging the lands of the offender *forfeited*, shall be *confirmed*, it shall be at the option of the *Governor-*

General in Council, either to *confer the rights* which the offender possessed in the lands, *on his heirs, upon their agreeing to make good all sums* whatever that may be *due from him to Government*, on account of the lands forfeited, *and to pay the fixed public Revenue* assessed upon them; or if the property forfeited be a *dependent Talook*, the Revenue payable from it to the proprietor within whose estate it may be situated; *or* to order the lands to be *disposed of at public sale*, under the rules prescribed for the sale of lands.—Reg. IV, 1793, Sec xxiii; Reg. VI, 1793, Sec. xxv; Reg. IX, 1799, Sec. ii.

If *a farmer of land*, holding *a farm immediately of Government*, shall *resist, or cause* to be resisted, any process, rule, order, or decree, which may at any time issue from any Zillah Court, or from the Sudder Dewanny Adawlut, on proof of the resistance being made to it's satisfaction, the Court is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place, so that he *cannot be served with the summons*, the Court is to proceed against him in the manner directed, with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the Court. If the offender shall *not appear* within the prescribed period, *or* if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it *shall be proved*, to the satisfaction of the Court, that *he is guilty of the charge*, the Court is to decree the *lease cancelled*, from the expiration of the Bengal, Fussily, or Willaity year (according as the farm may be situated in Bengal, Behar, or Orissa) in which the decree may be passed. The Zillah *Court, if* the offender shall *not appeal* to the Sudder Dewanny Adawlut within the time limited for preferring appeals to that Court, or the Sudder Dewanny Adawlut after passing the decree, is immediately *to transmit to the Governor-General in Council a copy of the decree, and of all the proceedings* respecting the charge; or if the *offender shall appeal to the Sudder* Dewanny Adawlut within the prescribed period, *and* the Court should *confirm* the decision of the Zillah Court, they are immediately to transmit a *copy of their decree and proceedings* and of the decrees and proceedings received from the Zillah Court, *to the Governor-General in Council*. It shall be at the option of the *Governor-General* in Council, either to *order* the *decree to be executed, or to commute* the forfeiture of the lease *for such fine*, as, upon a consideration of the situation and circumstances in life of the offender, he may *think adequate* to the offence, for which the decree may be passed; or

if the offender shall not be desirous of being continued in his farm, *to fine him* as above prescribed, and *compel him to retain the farm* during the remainder of the lease, and to hold *him and his surety responsible* for the discharge of their engagements, until the term of them shall expire. If a fine shall be imposed upon the offender, the Court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving notice of the fine, is to *levy the amount* of it, by the same process as is prescribed for enforcing *decrees of the Court*. If the lease of the offender shall be annulled, and a balance shall be due from him to Government, at the close of the year in which the *lease may be cancelled*, both *he and his surety* are to be held *responsible* for the payment of it; and the *Collector* of the Revenue of the Zillah is empowered *to proceed* against them *for the recovery of it*, in the manner prescribed for the recovery of balances due from farmers, whose leases may be declared annulled. The *offender* is permitted *to prosecute*, in the Dewanny Adawlut of the Zillah in which the farm may be situated, the dependant Talookdars, under-farmers, and *ryots*, in the lands included in the farm, *for any arrears* of rent or Revenue that may be due from them to him, on account of the period, during which his lease remained in force.—Reg. IV, 1793, Sec XXIV; and Reg. VI, 1793, Sec. XXVI.

In all cases of resistance to the process of any Zillah or City Court of Dewanny Adawlut, if *the Judge* of the Court whose process may have been resisted, shall *be of opinion* that a *fine* to Government will be a *more proper* and adequate punishment for the offence than a forfeiture of the offender's estate or farm, he is authorized, *instead of the decree of forfeiture*, directed by the above provisions, to adjudge the offender to pay such *fine to Government*, as may appear proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted, as provided with regard to persons, not being land owners or farmers of land, by the following Section, and subject to the provisions therein, for an *appeal* from the judgment of the Court. It is further provided that *no decree for the forfeiture of an estate or farm*, which may have been passed by a Zillah Court, or by the Court of Sudder Dewanny Adawlut, and transmitted to the Governor-General in Council under the foregoing rules, shall be deemed *final, until confirmed by the Governor-General in Council*, nor shall such decree be *carried into execution, until notice of the confirmation be received*.—Reg. IX, 1799, Sec III.

If any person, not being a Zemindar, independent Talookdar, or other actual *proprietor of land*, or a dependant Ta-

lookdar, *or a farmer* of land holding a farm immediately of Government, shall *resist, or cause* to be resisted, any process, rule, order, or decree, which may at any time issue from any Zillah or City Court, or from the Sudder Dewanny Adawlut, on proof of the resistance being made to it's satisfaction, the Court, is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house or building, or retire to any place, so that he *cannot be served with the summons*, the Court is to *proceed against him* in the manner directed, with regard to other persons absconding, or otherwise acting *as above specified*, so that they *cannot be served with the process of the Court*. If the offender *shall not appear* within the prescribed period, *or* if he shall appear within the limited time, and after receiving his answer and hearing the evidence which he may have to produce in defence, it shall be proved to the satisfaction of the Court, *that he is guilty of the charge*, the Court is to adjudge the offender to pay *such fine to Government*, as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted. The Zillah Court, *if* the offender shall *not prefer an appeal* to the Sudder Dewanny Adawlut within the time prescribed for lodging appeals, or the Sudder Dewanny Adawlut, after passing the decree, *is to proceed to levy the amount* by the same process by which it is empowered to carry it's decrees for sums of money into execution. *If* the offender should *appeal to the Sudder* Dewanny Adawlut within the prescribed time, *and* that Court should *confirm* the decision of the Zillah or City Court, the Court is to proceed *to levy the amount* by the same *process*, by which it is empowered *to carry it's decrees* for sums of money into execution.—Reg. IV, 1793, Sec. xxv; and Reg. VI, 1793, Sec. xxvii.

REVIEW: *Zillah Judges, and Principal Sudder Ameens; Stamp; Period; Report for; Sudder Ameens and Moonsiffs;* —*P. S. A. above* 5000 *Rs.*

Any persons considering themselves aggrieved by a *decree* passed in a regular Civil suit or *appeal* by a Zillah Court, or a Principal Sudder Ameen, *from which* decree *no further appeal* may have been *admitted by a Superior Court*, and who, from the discovery of *new matter or evidence* which was *not within their knowledge, or could not be adduced* by them, *at the time when the decree was passed, or from any other good and sufficient reason*, may be *desirous of* obtaining a *review of the judgment* passed against them, are at liberty to present a *petition* for this purpose *to the Court* in which the decree in question may have been passed. Such petition shall be written on *stamped paper, of*

the value prescribed in No. 7, Sched. B, Reg, X. 1829, and shall be *presented within* the period of *three calendar months* from the delivery or tender of the decree, calculated according to the provisions of Clause tenth, Section viii, Regulation XXVI, 1814. The *Courts* are, nevertheless, authorized to *admit* applications for a review, *after* the period above-mentioned, *provided* that the parties preferring the same shall be able to show just and *reasonable cause*, to the satisfaction of the Court, for not having preferred such application within the limited period. *In such case*, however, the Courts are enjoined to proceed with *caution*, and to *state* at large, upon the proceedings, their *reasons* for admitting such applications, after the limited period. *If the Court* shall be of opinion that there are *not* any sufficient *grounds* for a review, they shall *reject* the petition, and their order to that effect shall be *final*; but *if*, on the contrary, they shall be of opinion, that the review desired is *necessary*, to correct an evident error or omission, or is otherwise requisite for the ends of justice, they shall *report* the same *to the Sudder* Dewanny Adawlut, transmitting at the same time a statement of the *grounds of their opinion, with a copy of* the *petition* presented to them, *and a copy of the decree* passed in the case. *If* the *Principal Sudder Ameen* shall be of opinion that the review applied for ought to be admitted, he shall *report* the case *to* the Zillah or City *Judge*, who is authorized to *grant permission* under the same rules, as are prescribed by the existing Regulations, in cases where similar applications may be made to the Court of Sudder Dewanny Adawlut.—Reg. XXVI, 1814, Sec. iv, cl. 2; Reg. V, 1831, Sec. xix, cl. 2.

The foregoing *rule* shall be also *applicable* to the Courts of *Sudder Ameens and Moonsiffs*; Provided always, that if a Sudder Ameen or Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall *report* the case *to the Judge*, who is authorized to permit such review, under the *same rules* as are prescribed by the existing Regulations, with respect to similar applications to the Court of Sudder Dewanny Adawlut. —Act XXVI, 1852, Sec. iii.

Applications for review of judgments passed by *Principal Sudder Ameens in suits exceeding*, in amount or value the sum of 5,000 rupees, shall be made by such Principal Sudder Ameens *directly to* the Court of *Sudder* Dewanny Adawlut, and shall be conducted in all respects as applications for review of judgments of Zillah Judges. Act XXV, 1837, Sec. iv.

REVIEW: *Sudder Dewanny Adawlut. Absent Judges.*

The Court of *Sudder* Dewanny Adawlut, in *cases referred to them* under cl. 2, Sec. iv, Reg. XXVI, of 1814, and cl. 2, Sec. XIX, Reg. V, of 1831, *as well as in all cases* in which a petition may be presented

to them, for a revision of their own judgments, which may *not* have been *appealed* to the Queen in Council (or though appealed, the proceedings in which may *not* have been *transmitted to the Queen in Council,*) are authorised to *grant* the *review* desired, *if* upon a consideration of the reasons stated, the circumstances of the case shall appear *in justice* to *require it.* The Sudder Dewanny Adawlut shall *record* on their proceedings the *grounds* upon which a review may be granted by them in each instance, and shall issue any *instructions* regarding the admission or rejection of *new evidence* in the case, which they may deem just and proper.—Reg. XXVI, 1814, Sec iv, cl 3

Whenever the *Judge* or Judges who may have passed the decree, or if the decree have been passed by *two* or more Judges of the Sudder Dewanny Adawlut, when any of such Judges shall continue attached to the Court, at the time when the petition for a review is received, and shall *not be precluded, by absence or other cause, for a period of six months* after the receipt of the petition, from considering and recording his order or opinion upon the same, it shall *not be competent to any other Judge* or Judges of the same Court to *enter upon a consideration* of the merits of the petition, *and record an order* or opinion thereupon, it being the *obvious intention of the rules* referred to, that application for a review of judgment, made in pursuance thereof, should, as far as practicable, be received and disposed of by the Judge or Judges who may have passed the decision, subject to the regular course of appeal, if the case be appealable to a superior Court *Provided,* however, that this *restriction* shall *not* be considered *applicable to cases, not open to a further appeal,* in which a *single Judge* of the Court of Sudder Dewanny Adawlut may appear, on the face of the decree, to have *exceeded the powers* vested in him by the Regulations In *such cases,* the decree being imperfect and irregular, it shall be competent to a *majority of the Judges* of the Court of Sudder Dewanny Adawlut, *concurring* in opinion as to such irregularity, to *proceed* upon the petition for a review, in the manner prescribed.—Reg. II, 1825, Sec. iii.

REVIEW, *A regular appeal lies; when refused.*

The *order* of a Zillah or City Court, or of a principal Sudder Ameen, or of the Sudder Dewanny Adawlut, *rejecting the petition for a review* in the first instance, or of the latter Court refusing to sanction a review when applied for by a lower Court, shall *not* be construed to *preclude* the party from *instituting a regular appeal,* (if the case be appealable,) in a competent Court, subject to the conditions and rules prescribed by the Regulations in force for the admission of such appeals,—Reg XXVI, 1814, Sec. iv, cl. 4.

REVIEW: *After period; Stamp; Recovery of Stamp; of rejected Stamp, of admitted; Groundless; Stamp; Time.*

Whenever the petition for a review of judgment may be presented *after* the period of *three months* from the delivery or tender of the decree, it shall be written upon the *stamped paper, prescribed in No.* 8, Sched. B, Reg. X, 1829, with reference to the amount or value of the property adjudged against the party desiring the revision, in like manner as if a regular appeal were preferred from such judgment; *unless* the party desiring the review be a *pauper*, in which case the provisions relative to pauper appallants, contained in Reg. XXVIII, 1814, shall be held applicable.—Reg. II, 1825, Sec. ii, cl. 1

If the *petition* for a review of judgment shall be *rejected* by the Court receiving the same, as not containing sufficient grounds for the review desired, the petitioner shall *not* be *entitled* to receive back the *amount of the stamp* duty paid for the paper on which the petition may have been written; *but* in the event of its having been *written on the stamped paper prescribed in No.* 8 Sched. B, Reg. X, 1829, the Court rejecting the petition is vested with a *discretionary authority*, in any particular instance, wherein the forfeiture of the *entire* stamp *duty* may appear *excessive*, on due consideration of the circumstances of the case, to *order the refund of any portion* thereof, *not exceeding three-fourths* of the total amount, from the public treasury.—Reg. II, 1825, Sec. ii, cl. 2.

When the petition for a review of judgment may be *admitted*, the Court reviewing the case will, on deciding it, *pass such order*, relative to the *stamp duty paid* by the petitioner, as may appear *just and proper*, whether for his *reimbursement by the opposite party*, as part of the costs of suit; *or* for the *refund* of any portion of it, *not exceeding three-fourths, by Government*.—Reg. II, 1825, Sec. ii, cl. 4.

When the rejected *petition* may have been written on the *stamped paper* prescribed *in No.* 7, Sched. B, Reg. X, 1829, and shall be found, by the Court rejecting it, *groundless* and litigious, *so as to merit a fine*, in addition to the small stamp duty, paid in conformity with that Section, the Court is authorized and required to *impose such fine*, as may be proportionate to the circumstances of the case, and the condition of the party, *not exceeding* the amount of the *stamp duty* which would have been *payable, if* the *petition* had been written on *the stamped paper prescribed in No.* 8, Sched. B, Reg. X. 1829; Reg. II, 1825, Sec. ii, cl. 4.

SALT AND OPIUM: *Defendants in those Departments; V.* PARTIES, p. 113.

When the *defendant* may be a person employed in the departments of *Salt* or *Opium*,

the *notice* to be served on the defendant shall be inclosed within a sealed cover, addressed to the *Agent, or* to the *Assistant* or to the Gomastah, Ameen, or *head officer of* the nearest *aurung, kothee, or choukee,* subordinate to them; and shall be superscribed with the official seal and signature of the Moonsiff. The *Agent or his Assistant or head* native *officer,* shall *cause* the *notice to be duly served,* and acknowledged by the defendant, and shall then return it to the Moonsiff.—Reg. XXIII, 1814, Sec. xx.

If any individual, whose *evidence is required,* shall be a person employed in the provision of *Salt and Opium,* under the Agents of Government, the *summons* shall be served in *the same manner* as is prescribed in the above Section, respecting the issue of notice to a defendant. The Moonsiffs will be careful not to summons such persons unnecessarily, and on their attendance, shall cause them to be examined and dismissed with *all possible despatch.*—Reg. XXIII, 1814, Sec. xxx.

SECTION X. PROCEEDING: *V. C. O. S. D. A.* "*Issues*" *and* "*Sec. X.*" *(Pp.* 150, 151 *and* 264, 265 *of that work.)*

The *Court* shall then *consider* and *record* the point or *points to be established,* respectively, by the plaintiff or appellant, and by the defendant or respondent, *and* shall proceed to *take the evidence* which may be adduced by either party, *upon such points,* in the manner prescribed by the rules in force.—Reg. XXVI, 1814, Sec. x, cl. 3.

SECURITIES: *Custody of; May be reported on by Moonsiff.*

When personal bail or *security* for money or other property, may be *demandable* from a party in any original Civil suit, or appeal, and he shall *tender a deposit of money or of promissory notes, or other obligations of Government, or any other sufficient money security,* to the amount required, such deposit shall be accepted, instead of *Hazirzaminy* or *Malzaminy* securities; and shall be *carefully kept by the Treasurer of the Court,* to be restored or disposed of as the Court may direct, on the termination of the cause, or whenever the purpose for which the deposit is made, shall have been accomplished.—Reg. II, 1806, Sec. viii.

The Zillah and City Judges are further empowered to employ the *Moonsiffs* in ascertaining and *reporting* upon the sufficiency of *securities, and the indigence* of persons suing in *formâ pauperis.*—Reg. XXIII, 1814, Sec. liii.

STAMPS: *Old Laws not repealed; Writing; Additional Sheets; Fine; Copies; In Evidence; Penalty; Process to recover it; Papers prepared by Cazees; Inadequate Stamp; By error; Paupers; Remands.*

NOTE.—Regulation X, of 1829 rescinded the previous Stamp Regulation *i. e.* I, of 1814, and all such other existing rules as related to the "*imposition, levying, and collecting*" of Stamp duties; but the *Regulations*

enacted before Reg. X of 1829, *contain some rules, which do not appear to have been repealed,* and which have no substitutes in the last mentioned Regulation, or in the Schedules annexed thereto. *Such rules are here placed* before *the existing Stamp Regulation. The rules passed* after *that Regulation, follow.*

All pleadings, petitions, and applications, all deeds, documents, and other papers, whether originals or copies, which are required by the Regulations to be *written* on stamped paper, are to be written in a *fair legible* manner; and as they have been hitherto usually prepared, as well with regard to the *size of the writing, space* between the words, and the *number of lines* in each page, as to *all other matters* regarding their engrossment.—Reg. XXVI, 1814, Sec. v, cl. 2.

If the subject matter of any *plaint or petition* of *appeal, cannot,* under the rule contained in the preceding clause, be conveniently comprised in a *single sheet or roll* of the stamped paper, prescribed for such plaint or petition of appeal, any *additional sheets or rolls,* which may be required for that purpose, *shall be* of the description of *stamped paper specified in No.* 9, Schedule B, Regulation X, 1829. In like manner, if the subject-matter of any *answer, reply, rejoinder* or *other pleading,* cannot be comprised in a single sheet or roll of the stamped paper prescribed for such pleading, any *additional sheets* or rolls which may be required for that purpose, shall be of the description of *stamped paper specified in No.* 9, Schedule B, Regulation X, 1829.—Reg. XXVI, 1814, Sec. v, cl. 3.

Except in the Lower Provinces, if a party, or vakeel, or other *person,* shall hereafter *file* in a Zillah or City Court, or in the Sudder Dewanny Adawlut, any plaint or *pleading* required to be written on stamped paper, which may *not* have been prepared *in conformity* with the foregoing rules, the *Court is* authorized to impose on such party, vakeel, or other person, any *fine* which they may deem proper; *provided* that such fine shall, in *no* instance, *exceed three times* the amount or value of the *additional stamped paper,* which would have been required, had the plaint or pleading been drawn up in conformity with the foregoing provisions.—Reg. XXVI, 1814, Sec. v, cl. 4, and Act XVIII, 1852. Sec. i. (The last cited law repeals the first, as to the L. P.)

If the subject-matter of any *miscellaneous petition* or application, *or* of *other papers specified in Nos.* 6 *and* 7 Schedule B, Regulation X, 1829, cannot, under the rule contained in cl. 2, Sec. v, Reg. XXVI, of 1814, be conveniently comprised in a single sheet or roll of the prescribed stamped paper, any additional sheets or rolls, which may be required for that purpose, shall be of the value and description specified

in the said numbers of the said Schedule; and if any such *petition* or paper, which may *not* have been prepared *in conformity* with the foregoing rule and with the rules contained in cl. 2, Sec. v, Reg. XXVI, of 1814, shall be hereafter *presented* to any of the Courts or officers specified in Nos. 6 and 7, Schedule B, Regulation X, 1829, such Court or officer is hereby authorized to impose a a *fine* on the party or person presenting, under the same limitations as are prescribed in the preceding clause.—Reg. XXVI, 1814, Sec. v, cl. 5.

It is hereby declared, that it is *not intended to preclude individuals from making for their private use*, and at their own expense, *copies of* Judicial or Revenue papers, with the permission of the Court, Collector, or other Public Officer having charge thereof, on any paper which they may prefer; *but if* such copies be *not made on stamped paper, they shall not be authenticated* by the seal or signature of any Court, Collector, or other Public Officer, *and shall not be received* as *evidence in* any Court of Justice, or in any public office whatever. —Reg. XXVI, 1814, Sec. xvi, cl. 4.

Any ministerial *officer* who may hereafter *file in* any Court of Justice. or in the Office of any Collector or other Public Officer, *without the written order of such officer, any* petition, pleading, or other *document required to be written on stamped paper*, which may *not* have been *written* on the prescribed stamped paper, *or* who shall *furnish a copy of paper* or proceeding *required* to be written upon *stamped paper*, or any other paper than the required stamped paper, shall be *liable to dismission from office, and* to the payment of a *fine to* Government *equal to ten times* the amount of the stamp duty which would have been payable. if the prescribed stamped paper had been used for such petition, pleading, or other document, —Reg. XXVI, 1814, Sec. xvii, cl. 1.

Such penalty shall be recoverable by a *summary process* in the Courts of Dewanny Adawlut.—Reg. XXVI, 1814, Sec. xvii, cl 2.

All authenticated copies of *documents specified* in *Schedule A*, Reg. x, of 1829, which may be *prepared as legal vouchers by a Cazee, mooftee, or other authorized* person, shall be written *on stamped paper*, according to the rates prescribed for the originals of such deeds; any copies *not* written *on such paper* will *not be admissible in evidence* under that Sec.—Reg. XXVI, 1814, Sec. xviii.

If, during the trial of any regular suit, it shall appear that the plaint has been written on stamped paper of a *less value*, than that which ought to have been used, under the provisions of No. 8, Schedule B, Regulation X, 1829, and the Court shall be of opinion that the *error* or omission did *not* arise from any *fraudulent* motive, or from any design on the part of

the plaintiff, to evade the provisions of the Regulations, it shall be competent to the Court, either to permit or to direct the plaintiff or appellant in the suit, to file a *duplicate of the plaint, on stamped paper* of such a value as may be *sufficient* to complete the full amount of the stamp duty prescribed by the Regulation above mentioned.—Reg. XXVI, 1814, Sec. vii, cl. 1.

Whenever a party may be desirous of instituting an original suit, as a *pauper*, in any Civil Court, he shall appear in person before such Court, and shall present a *petition*, written on the *stamped paper* prescribed for *miscellaneous petitions*, in No. 7, Schedule B, Regulation X, 1829.—Reg. XXVIII, 1814, Sec. v, cl. 1.

The *stamp duty* which has been *substituted of the institution fee*, by Regulation X, 1829, shall *not* be required from plaintiffs, who may be admitted to sue as *paupers*. The plaint, reply, or other *pleadings* on the part of the plaintiff, as well as applications on his part, for receiving exhibits, and summoning witnesses may be written on *unstamped* paper. The notice to the defendant, the summons for witnesses, and other *processes* on the part of the plaintiff, shall be served *through the chuprassies* on the establishment *of the Courts, without any expense to the plaintiff;* and the copy of the *decree*, as well as *copies* of orders or proceedings which he may be required to take, shall be furnished to a pauper plaintiff on *unstamped* paper.—Reg. XXVIII, 1814, Sec. viii.

Nothing contained *in Schedule* B, Regulation X, 1829, shall be deemed or considered to alter or *affect* the rules in force in regard to *paupers*.—Reg. X, 1829, Sched. B, Final Rule.

In all *appeals*, regular or special, under the Regulations in force, if the suit in appeal be *referred back* for further investigation and decision, *without a judgment upon the merits* of the case, the *stamp duty* paid by the appellant on his petition of appeal shall be *returned* to him.—Reg. XIX, 1817, Sec. viii.

STAMPS: *Present Law; What may not be received; Exception; Calcutta; Authentication; Descriptions of Paper; Superintendence; Board; Stamp Office; Description of Stamps; Collectors; Indents; Receipts; Superintendent; Vendors; Duties; Pay; Liabilities; Native Officers; Spoiled Stamps; Forgery; Endorsements; Inadequate Stamps; Period of remedy; Penalties; Decisions of; Duties on Law Papers; Vakeels; Collector; how to move Court; and try cases; Extortion of Vendors; Magistrate; Superintendent in the Interior; Schedules A and B.*

Stamp duties shall be levied, raised, and paid, as heretofore, *upon the deeds, instruments, and writings, and according to the rates, specified in the Schedule (A)* annexed to Regulation X, 1829, *from and after the date of the promulgation thereof;*

and *no deed*, instrument, *or writing* executed in any place whatsoever on the continent of India, and relating to the payment or receipt of any sum of money, or to the sale conveyance, or assignment, or transfer of any property, real or personal, *being within any province or place to which this Regulation extends*, or of any interest in such property, or relating to any agreement, contract, obligation, engagement, or settlement, *intended to have effect within any province or place as aforesaid*, (such deed, instrument, or writing being of a description chargeable with stamp duty, under the rules of this or any other Regulation), *shall be pleaded, given, or admitted in evidence, or otherwise received or filed in any Court of Judicature, or other public office*, within the provinces subject to the Presidency of Fort William, *unless* the paper, vellum, or other material, on which such deed, instrument, or writing may be written, shall be *stamped*, with the stamp *prescribed* for such deed, instrument, or writing, *in the said Schedule, and the Schedule* aforesaid *shall be* deemed and considered to be, to all intents and purposes, *part of the Regulation*.—Reg. X, 1829, Sec. iii, cl. 1.

Provided, however, that no exception shall be taken to any deed, instrument, or writing not executed on paper or other material bearing a stamp of the specific denomination prescribed in the Schedule hereunto annexed, *if* such deed, instrument, or *writing* shall *bear* a stamp or *stamps* of an amount *exceeding* that so *prescribed, or* if when of a *date anterior to* the passing and promulgation of this *Regulation*, the stamp borne by the paper or other material of the deed, instrument, or writing corresponds with the rate of duty chargeable on the same, at the time when such deed or writing was executed.—Reg. X, 1829, Sec. iii, cl. 2.

When a different stamp may be in use for *Calcutta* and for the interior, *no exception* shall be taken to any deed, document, or writing as bearing an undue stamp, because stamped with the *Calcutta die* when intended to have effect *in the interior, provided* the deed or document, and the stamp impressed thereon be in *other respects correct, and* the amount of *duty*, indicated by the stamp, correspond with *that* prescribed *in this Regulation*.—Reg. X, 1829, Sec. iii, cl. 3.

In modification of the existing rules in regard to the authentication of stamped paper, by *Assistants* duly appointed for that purpose, it is hereby declared and enacted, that such *descriptions of paper* only, as may be directed by the Governor-General in Council, shall be *required to bear*, in addition to the Government stamps, the *authentication* of signature by an Assistant to the Superintendent of Stamps. Every Collector and vendor of Stamps shall be provided with

a copy and translation of the order last issued for regulating such authentication, that the same may be exhibited to purchasers, and to the public at large, and no paper, parchment, or other material shall be sold or delivered out from any store or place of vend that may not be conformable thereto. Any *vendor, selling unauthenticated* paper of a description requiring to be authenticated, in violation of this rule, shall, on conviction, *forfeit* the sum of 100 Rupees for each offence.—Reg. X, 1829, Sec. iv.

The general *Superintendence* of the management of the Revenue derived by Government from Stamps shall be vested in such *Board*, Commission, or other authority, as the Governor-General in Council may, from time to time, appoint and direct; and it shall be competent to the Governor-General in Council to assign the whole of the duties of *Superintendence to one authority, or* to divide and distribute the *several duties* hereinunder prescribed to be performed, by a Board or other superior authority, *amongst several Officers* and authorities, in such manner as he may determine; giving *notice* of any change in this respect by publication in the Government Gazette.—Reg. X, 1829, Sec. v, cl. 1.

A *Stamp Office*, at which stamps of the *several descriptions* provided for by this Regulation shall be *prepared, and kept in store*, shall be established as heretofore at such house, building, or place, *at or near the Presidency* as the Governor-General in Council may deem suitable for the purpose; and the same shall be under the charge of an Officer, to be denominated *Superintendent of stamps*, who shall in all matters connected with the execution and due enforcement of this Regulation, be *subjected to the orders of the Board*, or other authority appointed by the Governor-General in Council, for the control and management of this branch of Revenue. The Superintendent shall *keep an exact account of all stamps* impressed or *manufactured* by the Government Officers, as well as of all *issues* from the depôt, and of the quantity of stamped paper, vellum, or parchment of each description remaining in store. He shall likewise keep a separate *account of unstamped water-marked papers, and of the receipts and issues thereof*, and shall prepare and submit to the said Board, or other controlling authority, such *periodical reports* and *statements as* may be required by that authority.—Reg. X, 1829, Sec. v, cl. 2.

For every sum charged, or purporting to be charged, as Stamp duty, on any vellum, parchment, paper, or other material, sold or delivered out for sale, *two stamps* shall be impressed, *each* of which shall *specify* in the English, Persian, and Bengallee characters, the amount of the *sum charged*; one of the said stamps shall be affixed at the Stamp Office,

and shall bear, *besides the value* as above, the words "*Stamp Office,*" in the English character, with *any further device* or legend which the *Board* or other controlling authority aforesaid may see fit to *direct*. The other impression shall be a *counter-stamp*, to be affixed in such place and at such Office as the Governor-General in Council shall prescribe; and shall *bear*, along with the *amount* of duty levied, either the *name of the Office* where the same may be so affixed, in English, or the word "*Counter-stamp,*" to designate the nature thereof.—Reg. X, 1829, Sec. vi, cl. 1.

It shall be the duty of the *Board*, or other controlling authority appointed as aforesaid, to *provide*, or cause to be provided, proper and sufficient *stamp or dies*, for expressing and denoting the several duties and rates specified in the Schedule annexed to this Regulation; and it shall be competent to the authority aforesaid, to direct, if so deemed expedient, the employment of *two or more stamps*, to denote the amount chargeable on any single piece of vellum, parchment, paper, or other material: *provided*, however, that the *Stamp* impressed with the word "Stamp Office" shall always *correspond* in number and value *with* the *counter-stamps*, impressed thereon.—Reg. X, 1829, Sec. vi, cl. 2.

The said Board or other controlling authority as above provided, shall have the power also of at any time changing or *altering the dies*, and of regulating the size, shape, *and* manner, and matter of the *impressions*, at discretion; *provided* only that the *Stamp* to be affixed at the *Stamp Office* shall always contain, in *plain* and *legible* characters, the *legend* prescribed in Cl. 1. of this Sec.; and that the *counter-stamp* do similarly contain its legend. The said *Board* or other authority aforesaid, shall however, in the exercise of the powers and functions vested in them by this Regulation, be *guided* by such *special directions* as they may receive from the Governor-General in Council, in the manner heretofore used in all matters and things belonging to the management of this branch of the public Revenue.—Reg. X, 1829, Sec. vi, cl. 3.

The collection and management of Stamp duties *in the several districts* subject to the Presidency of Fort William, shall be vested in the *Collectors of Land Revenue, unless* the Governor-General in Council shall at any time think proper to *transfer* the same to any other Officer, or to associate, depute, or appoint another Officer for the charge thereof. In such case, the Officer so deputed or appointed, shall exercise the power and authorities vested in *Collectors of Land Revenue* by this Regulation, unless otherwise specially provided in the order of appointment.—Reg. X, 1829, Sec. vii.

The Collectors or other Officers authorized to sell Stamps shall be *supplied* with

Stamps *upon indent*, addressed *to the Superintendent of Stamps*, to whom they shall grant *receipts in duplicate*.—Reg. X, 1829, Sec. viii, cl. 1.

The *Collectors* or other Officers authorized to *sell Stamps* shall be *answerable* to Government *for the value* of all paper, for which they may give receipts, as above, to the Superintendent of Stamps, or to their predecessors in Office.—Reg. X, 1829, Sec. viii, cl. 2.

The *Collector* shall *appoint* such *Officers for the management of the Stamps at the Sudder* Cutcherry as he may deem fit, taking from them such *security* for his satisfaction, as he may deem adequate and necessary; *provided*, however, that *all persons* employed in the vend of stamped paper, shall be *liable to the rules* hereinafter enacted for licensed vendors.—Reg. X, 1829, Sec. ix, cl. 1.

No person not licensed after the manner hereinafter prescribed, *shall* be competent to *expose stamped paper*, parchment, or other material, *publicly, to sale*; and any one offending in this respect, shall, on conviction, forfeit to Government, for the *first offence*, the sum of *five hundred* rupees; and for the second or any *subsequent offence*, the sum of *one thousand* rupees. *But nothing* herein contained shall be deemed *to prevent persons, having duly purchased* stamp paper or other material, from the authorized vendors of Government, or having otherwise obtained such paper from the Stamp Office, after the manner hereinafter provided, *from transferring* the same to others.—Reg. X, 1829, Sec. ix, cl. 2.

Every person, who may be appointed by a Collector or other Convenanted Officer, to be a *Vendor* of Stamps on the part of Government, shall execute a *bond*, with one or more responsible *sureties*, for the faithful performance of the several duties prescribed for Vendors, in this or any future Regulation, with such penalty, and after such *form*, as may be required by the Board, or other controlling authority; and any *failure* in fulfilling the conditions of such bond, shall, *besides the penalty* thereby provided, subject the offender to immediate *dismission* from the said office of Vendor.—Reg. X, 1829, Sec. x, cl. 1.

All persons *licensed to vend* Stamps shall, at all times, have their respective *licenses*, together with a copy of the *schedules* annexed to this Regulation, *or* of an *abstract* thereof, duly authenticated by the official signature of the Superintendent of Stamps, and likewise, copy of the *orders* last issued, in respect to the *authentication* of Stamp paper, as prescribed in Sec. iv, *stuck up in a conspicuous place, within the shop*, or building, in which they may sell the Stamps, and shall further hang up on the outer door of such shop or other building, such *Notification* of their being licensed, as the Board or other controlling authority aforesaid, may direct.

Any neglect or other *failure* to observe the above rule, will, on conviction before the Collector of the district, subject the party offending to a *fine of fifty rupees for each offence.*—Reg. X, 1829, Sec. x, cl. 2.

Persons licensed, as aforesaid, shall keep such *accounts* of the paper received and delivered by them,. as the Board or other controlling authority may direct; and shall *furnish* the *Collector* or other officer under whom they may serve, with such copies, statements, or extracts of their *accounts,* and at such periods, as he may from time to time, require. The said persons shall *regularly pay* to the Collector or other officer, *all money* or moneys *received* by them *on the sale of stamps* intrusted to them, on the account of Government, *at such periods, as the said Collector* or other officer *may appoint;* and *shall* likewise, *at all times* when required, *permit* the said officer, or any other person duly authorized by him, *to inspect the accounts* kept by them, *and* to *examine* the store of *stamped paper,* or other material bearing the prescribed stamp, which they may have in their possession for sale.—Reg. X, 1829, Sec. x, cl. 3.

Any *Vendor failing to produce* before the Collector of the district, or other officer vested with the powers of a Collector, in respect to the Stamp duty, any of the *accounts* required to be kept by him, as above provided, *after requisition* made in *writing* by that Officer, and failing to account for such omission to the satisfaction of the said Collector or Officer, or of the Board or other controlling authority, as above provided, shall *forfeit* the sum of *fifty rupees* for each offence, and shall further forfeit a *like sum daily,* for every day beyond the date fixed in such requisition, for the production thereof, until the day when the accounts may be produced. Any vendor, *refusing* to permit the Collector or other Officer vested with similar authority, or any person duly authorized by a writing, under the seal and signature of such Officer, to *inspect the* said accounts, *and* examine the store of *Stamped paper,* at the time in the custody of such Vendor, immediately upon demand, shall, on conviction, forfeit, for every such refusal, the sum of *one hundred rupees,* and shall further be subject to a *daily fine of fifty rupees, until* he shall *comply* with the Collector's requisition.—Reg. X, 1829, Sec. x, cl. 4.

No Vendor of stamps shall *deliver* any stamped paper, vellum, parchment, or other material, to any person whatsoever, *without having previously received the full amount* of the duty denoted by the Stamp thereupon affixed, save and *except* in cases in which he may be otherwise *specially permitted* or directed *by* Perwanna or *written order* of the Collector or other Officer exercising similar powers; and any Vendor of Stamps who

may, without authority, permission, or direction in writing from the Collector or other Officer aforesaid, sell, give out, or deliver stamped paper, vellum, parchment, or other stamped material, without having received the entire amount of duty denominated by the stamp affixed thereto, shall, on conviction, *forfeit* for each and every piece of paper, or other material so given out or delivered by him, the sum of *fifty rupees, besides* being held *responsible*, in the first instance, *for the value* of the paper.—Reg. X, 1829, Sec. x, cl. 5.

Vendors of stamps shall *carefully write on the back of each sheet* or piece of paper, vellum, parchment, or other material bearing the impress of the Government Stamps, *on the same being sold* or delivered by them, the *date* of sale and delivery, and also the *name of* the person to whom the same is delivered; and shall *attest such* endorsement with their signature, written in the manner commonly used by them; and *any Vendor* of Stamps giving out or delivering any stamped paper, vellum, parchment, or other material, *without writing* on the back of each sheet or piece his *name* and the *date* of sale and delivery, as aforesaid, shall, on conviction, *forfeit* for each and every piece of stamped paper, vellum, parchment, or other material so wrongfully given out or delivered by him, the sum of *fifty rupees, when the value* of the stamped paper or other materia sold shall not exceed the sum of *sixteen* rupees; *if* the value of the stamped paper or other material so sold, without due endorsement, shall *exceed* the sum of sixteen rupees, then the Vendor shall, for *every offence* so committed, *forfeit* on conviction a sum equal to *three times the value* of the stamped paper, so improperly sold by him.—Reg. X, 1829, Sec. x, cl 6.

Any Vendor or distributor, writing a *false date* or *name* at the back of stamped paper, vellum, parchment, or other material given out by him, shall, on conviction, *forfeit* the sum of *one hundred* rupees for *every such offence;* and *if* the value of the stamp sold *exceed sixteen rupees,* then he shall, on conviction, *forfeit six times* the value of such stamped paper, *besides* being, in both cases, liable to the *penalty of his bond* in case of breach of its stipulations.—Reg. X, 1829, Sec. x, cl. 7.

Any Stamp Vendor convicted of *refusing* or of *unnecessarily delaying* to furnish stamped paper, vellum, parchment, or other material required by a person desiring to purchase, and tendering, in lawful currency, the full value of the same (he, the stamp Vendor having in his possession, for sale, stamped paper, vellum, or parchment of the description and value required), shall, *besides forfeiting his license,* be subject to a *fine of one hundred rupees.*—Reg. X, 1829, Sec. x, cl. 8.

Any stamp *Vendor* convicted of *taking* from a purchaser a *higher price* than that denoted on the Stamps, impressed on the paper, vellum, parchment, or other material sold, shall be deemed guilty of *extortion*, and shall be sentenced to *six months' imprisonment, on* conviction before the *Collector*, or other Officer qualified to take cognizance of the offence, besides being liable to *refund* the whole amount proved to have been levied, or taken in excess of the proper duty.—Reg. X, 1829, Sec. x, cl. 9.

It shall be competent to the *Collectors*, or other Officers exercising similar powers, to *demand* such *collateral security*, in addition to the bond above prescribed, as they may deem necessary, to guard against loss, from the misappropriation of the Stamps delivered to the Vendors, or from embezzlement of the money realised by them, and to require the same to be renewed, or other security to be furnished, at any time, that he may deem expedient; and any Vendor, *unable or refusing* to give such security, when required, shall *not be appointed; or if* already *appointed*, shall be *liable* to have his *license* immediately *withdrawn*.—Reg. X, 1829, Sec. x, cl. 10.

When the *license of* any Vendor may be *withdrawn, or* when such Vendor shall *resign* the office, all stamped paper, remaining in store at the time of such removal, or resignation, and all *accounts* regarding the sale and distribution of stamped paper or the like, at any time delivered to him, together with *the balance* of all money or moneys which may have been realized by the sale and distribution thereof, *up to the date* of removal or resignation, and which may not have been already paid or accounted for to the Collector, or other similar Officer; and likewise all licenses, orders, or other documents or writings, which the said Vendor may have received from that Officer, shall be forthwith *delivered* over *to* the said *Collector, or* to such *person* or persons as *he may appoint, by a writing* under his hand and seal, to take charge thereof, receiving for any part of the stamped paper that may have been furnished to him for cash, under the provisions of this or any other Regulation, the amount actually paid by him for the same, as therein directed. In case any Vendor, removed or resigning, shall refuse or *fail* to make over the said *accounts* and *stores*, and the *balance* of the accounts in cash, *or any part* thereof, he shall, on conviction, *forfeit*, for such failure or refusal a sum, equal to *triple the amount and value of the stamps and money*, which may appear, from the accounts kept at the Collector's office, to be, or which *ought to be, in the possession of such Vendor*, together with a *daily fine*, not exceeding the sum of *fifty rupees*, until the papers, accounts, and documents required, are furnished.—Reg. X, 1829, Sec. x, cl. 11.

In case of the *death of any Vendor of Stamps*, the Collector, or other Officer, vested with similar powers to a *Collector*, shall, in like manner, *demand from the heir or person administering* to or in possession of the estate of the deceased, or from any person in charge of his effects, the remainder of any *store* of stamped paper, vellum, parchment, or other material, on which the stamp is impressed, that may be due from such Vendor, at the time of his decease, together with all *accounts* of the sale or distribution thereof, as well as all *licenses, orders, or other documents* or writings, as aforesaid, that may be forthcoming amongst the effects of the deceased; and in the event of any *refusal* on the part of the heir, administrator, or other person in charge of the effects of the deceased, to deliver the same, a due *official receipt being tendered* for the same, *or* of *refusal* to allow *search* to be made, *whenever* the Collector or other similar Officer may *demand* to make search for the said stores, writings, or accounts amongst the effects of the deceased, such *heir*, or administrator or other person in charge of the estate or effects, shall *forfeit for every such offence*, on conviction, the sum of *one hundred rupees*, and shall further be subject to a *daily fine*, not exceeding *fifty rupees*, until the papers, accounts, documents, and writings required, are furnished, or search allowed to be made, as required.—Reg. X, 1829, Sec. x, cl. 12.

Provided also, that it shall be competent to the Collector, in all cases, in which a Vendor may fail, or *delay to account* for, and make good the *value* of any stamped paper, vellum, parchment, or other material, having a stamp impressed thereon, with which he may have been furnished for sale, on account of Government, immediately to call upon the *surety* or sureties of the said Vendor, to make good the balance of money or paper, standing against the Vendor; and on his or their *failure* to do so, to *proceed against all or any* of them for the recovery of the amount, *by the process* in use, *for recovery of arrears of Revenue, due by a Sudder farmer*.—Reg. X, 1829, Sec. x, cl. 13.

For the convenience of merchants, indigo planters, attorneys, and others, who may be *desirous of having* in their possession, papers, parchments, or other *material, stamped* with various impressions, to be used as occasion may require, in drawing up *instruments* of any of the descriptions required to be executed *on materials* impressed with a Government stamp, it is hereby provided, that any person desirous of obtaining a supply of stamped paper, or other material, shall, on application to the Collector of the district, or such other Officer or Officers as the Governor-General in Council may, from time to time, appoint, with similar powers, and *on payment*

to the said Officer of the amount chargeable on account of the Stamps required, receive a *certificate* or receipt *from the Collector* or Officer aforesaid, stating the amount paid, and the number and value of the stamps required, and on *the production of that certificate,* together with the necessary quantity of *plain paper, parchment, or other material,* the *Superintendent* of Stamps, or other Officer in charge of the *Stamp Office,* shall *cause* the same to be immediately *stamped and counter-stamped,* with the prescribed stamps of the denominations required.—Reg. X, 1829, Sec. xi, cl. 1.

No paper, vellum, parchment, or other *material,* shall, on any account, be received by the Superintendent of Stamps, to be *stamped,* on account of any individual, *unless* the same be accompanied with the above *certificate or receipt,* under the signature of the *Collector* or other Officer aforesaid, *for the entire amount of duty* which may be required to be impressed and denoted thereon, or *unless* the same be sent to be stamped by authority of the *Board,* or other controlling authority, under the powers vested in them, by this Regulation. The receipt or certificate of the Collector or other Officer aforesaid, shall be disposed of by the Superintendent in such manner as the Board or other controlling authority aforesaid may direct.—Reg. X, 1829, Sec. xi, cl. 2.

The Superintendent of Stamps shall appoint *one or more Officer* or Officers of the establishment to receive, and compare with the receipt of the Collector, or other Officer aforesaid, all papers and other *materials, brought* or transmitted to be stamped, *as above* provided, and, after the stamps shall have been affixed, an Officer, similarly appointed, shall again count and number the whole; and *sign his name at the back of each separate sheet* or piece of paper or other material; and he shall *likewise note* or cause to be noted on each, the *date* on which the said paper is *ready for re-delivery,* and further make an *entry* to that effect, *with specification* of the *quantity* of paper or other material impressed with each *description of stamp, in a book* to be specially kept by him, *for that purpose.* When the paper or other article shall be prepared in the manner above described, it shall be made up into a parcel, to be sealed with the Superintendent's seal, and shall, in that state, be *forthwith transmitted* for delivery to the person who may have sent it to be stamped; *or,* at the Superintendent's option, *notice shall* be sent *of its being ready* for delivery when called for.—Reg. X, 1829, Sec. xi, cl. 3.

Any person *purchasing* stamped paper, and furnishing the material as above provided, shall, *provided* the total value purchased *exceed* 500 *rupees, be entitled to a discount of four per cent.,* and the amount of such *discount* shall be charged

and entered in the accounts of the Collector or other Officer through whom the purchase may be made, under the head of *disbursements*.—Reg. X, 1829, Sec. xi, cl. 4.

It shall be competent to the *Board*, or other controlling authority aforesaid, to direct, and *cause stamps* to be furnished in the manner prescribed in this Section, *to* any *licensed Vendors*, who may be willing to purchase the same. All such persons however shall, in the sale of stamped paper so furnished to them, be subject to the *same rules as* are prescribed for the sale of stamps supplied to them *on account of Government: provided*, however, that if a Vendor, so supplied with stamped paper, shall *die or resign, or be dismissed, or* if his *license* be otherwise *cancelled*, the *Collector* shall require and *receive from him, if alive*, and *from his securities* and representatives, *if he has demised, all the stamped paper*, vellum, or the like, which may have been furnished to him, under the provisions of this Section, or such portion as may not have been disposed of; and he or his representative shall be *entitled* to receive a sum, equivalent to the price which he may have advanced for the same, viz. the specified amount of the stamped paper or other material aforesaid, with a *deduction of the discount* that may have been allowed thereon.—Reg. X, 1829, Sec. xi, cl. 5.

Any *native Officer* or other person wilfully causing or procuring any *stamp to be fixed* or impressed, *or any certificate* to be granted in the manner above described, *without* the Perwanna or written *order of the Collector*, or other similar Officer, *or conniving* with persons so fixing or impressing any stamp, or so granting a certificate, shall be *liable for every such offence* to a *fine* of *one thousand rupees, commutable to imprisonment, for the term of one year*, and shall *further* be held *answerable for the amount of the stamps* so impressed, or of the duty leviable on the paper mentioned in the certificate.—Reg. X, 1829, Sec. xi, cl. 6.

Should it so happen that any *stamped paper*, parchment vellum, or the like, after having been obtained in the regular manner, shall have become *soiled, spoiled, or unfit for use*, either by consequence of any *accident* happening to the same, or because of *error* in the drawing up or copying any instrument thereupon, which being discovered *before* such instrument may be finally signed and *executed*, renders the *writing of no avail*, or when by reason of the *death or refusal* of the party or parties *whose signature* may be *necessary* to effect the transaction, intended by such writing, it remains incomplete, and of no avail; or when by the *refusal of* any *Office*, or trust that may be granted by an instrument, it has failed of the purpose intended; or, in the case of promissory notes, *bills of* exchange,

or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same are never brought to use, in all such cases, it shall be competent to the Board or other controlling authority, duly appointed as above provided, upon delivery being made of the stamped paper, parchment, vellum, or the like, so soiled or spoiled, or rendered useless, to cause *stamps of equivalent value* to be delivered, as above provided, to the owner of the article or articles so soiled or spoiled, or his representative. But *this rule* shall *not extend to bills of exchange* drawn in sets, *of which any one* of the set may have been *delivered* to the payee.—Reg. X, 1829, Sec. xii, cl. 1.

The *owners* of stamped paper, which may be *damaged or soiled* as aforesaid, shall prefer their *application to the Collector* of the district in which they may have purchased it, and if the Collector be of opinion that the application ought to be complied with, he shall transmit a *report* of the case to the *Board, or other* controlling *authority* to which he is subject, who shall be, and are hereby authorized to *direct* the Collector to *deliver* to the party or his representative, *stamped paper equivalent to that* which may have been *destroyed*, or soiled, in the same manner, and subject to the same conditions, as above prescribed, for delivery of stamps to individuals. *Provided*, however, that *no such indulgence* shall be granted, *when the value* of the soiled stamps may *not exceed ten rupees, nor unless* application be made *within six weeks* of the period, when the material may have become soiled or otherwise damaged, and rendered of no avail.—Reg. X, 1829, Sec. xii, cl. 2.

If any *deed*, instrument, petition, pleading, or other writing, required to be written on stamped paper, and written on the prescribed stamped paper, shall be *filed*, exhibited, or recorded in any Court of Judicature or public Cutcherry, or *before any* Judge, Collector, or other *public Officer, not bearing the signature and endorsement of a licensed Stamp vendor (or not procured* in the manner prescribed *by this Regulation, and duly certified to be so*, when not obtained from a licensed vendor,) the person or persons filing, exhibiting, or recording the said deed, instrument, petition, pleading, or writing, or causing, or procuring it to be filed, exhibited or recorded, shall *forfeit a sum equal to five times the value of* the said *stamped paper;* and if any deed, instrument, petition, pleading, or document shall be filed, exhibited, or recorded as aforesaid, having a *forged or counterfeit* stamp or signature, the person filing, exhibiting, or recording such deed, instrument, or document, that is to say, the *party or his agent, who may have produced the same*, for the purpose of being filed, exhibited, or recorded, shall *forfeit* to Government

a sum equal to twenty times the value of the *stamp*, which ought to have been used, *unless* the material, on which the same may be executed, shall bear the signature and endorsement required by this Regulation, and the party shall be able to *show*, to the satisfaction of the Zillah Judge or Collector or other Officer conducting the inquiry, on the part of Government, as hereinafter directed, that the *material*, stamped with a *forged* stamp, was *purchased* or obtained on the date, and *in the manner specified on the back, or* was otherwise *procured* in some *manner* prescribed or *permitted by this Regulation*. If the said signature and date shall be duly endorsed on the back of the material, stamped as aforesaid, with a *forged impression*, and the *proof* adduced to the fact, and to the date of purchase, be *deemed* by the Judge or other Officer before whom, or in whose Office the deed, instrument, or other writing may have been filed, exhibited, or recorded, *to be sufficient*, that Officer, if not himself the Collector, shall transmit the document to the Collector, with a communication of the Judgment in the case, in order that *proceedings* may be instituted *against the vendor;* and the Collector, on payment by the party of the established duty chargeable on account of the matter of the instrument or deed in question, shall forward it to the Superintendent of Stamps, in order that it may be *duly Stamped*, the *amount* so paid being recoverable *from the vendor, or from any fine levied* from him on account of the transaction.—Reg. X, 1829, Sec. xiii, cl. 1.

If any *person* shall *discover* that any deed, instrument, or document in his possession, is written on paper or other material, bearing a *forged or counterfeit signature or Stamp*, such paper or other material bearing the signature and endorsement required by this Regulation, *and* shall *himself represent* the circumstance to the Collector or other Officer in charge of the Stamp Revenue of the district, such person shall, on proving to the satisfaction of the said Officer, that the paper or other material in question was purchased or obtained from a vendor, on the date specified on the back, or in a manner prescribed or permitted as aforesaid, be *entitled to have* the said paper or *material duly Stamped, without any fee or charge whatsoever.*—Reg. X, 1829, Sec. xiii, cl. 2.

Deeds, instruments, and *writings, executed on unstamped paper*, by individuals from accident, ignorance, inadvertence, *error*, or from other unavoidable cause; or deeds which may have come into the possession of persons, *subsequently to execution, not* executed on paper bearing the *prescribed Stamp*, may be impressed with the requisite Stamps, on application being made to the Collector or other Officer in charge of this branch

of the Revenue, *after payment of the penalties* hereinunder stated, or such *mitigated penalty*, in lieu thereof, as the Board or other controlling authority may prescribe.—Reg. X, 1829, Sec. xiv, cl 1.

If the deed have been executed in *ignorance* or through inadvertence, or under circumstances, exonerating the party from blame or suspicion of an attempt to evade payment of the prescribed duty, then, if *brought within thirty days* of the date of execution, on payment of *treble the amount of duty*, or *treble the difference*, if on Stamped paper of an inferior denomination.—Reg. X, 1829, Sec. xiv, cl. 2.

If *not brought* to be Stamped *within* the said period of *thirty days* from the date of execution, and the party be nevertheless *exempt from all suspicion* of attempt to evade the payment of duty, then, *provided* a period *of three months* have *not elapsed*, since the date of execution, or if brought within six months from the date of the promulgation of this Regulation, on payment of *five times the amount, or five times the difference*, if on Stamped paper of an inferior denomination.—Reg. X, 1829, Sec. xiv, cl. 3.

If the party *be unable to satisfy* the Collector or the Board, or other superior authority as aforesaid, *that* the execution of the deed on paper, not duly Stamped, proceeded from accident, *ignorance*, inadvertence, error, or other cause, exempt from suspicion of evasion, the party shall, *provided* the *deed be voluntarily brought within six months from* the *promulgation* of this Regulation, *or within three months from the date of execution*, be entitled to have the prescribed Stamp affixed, on payment of a penalty equal to *ten times the value*; and the *decision of the Board* or other controlling authority aforesaid, whether declaring the paper liable or not liable to suspicion of evasion, shall be conclusive and *final*.—Reg. X, 1829, Sec. xiv, cl. 4.

Deeds and instruments executed on *unstamped* paper, and *not* presented to be Stamped *within six months from the date of the promulgation of this Regulation*, or *within three months from the date of execution, shall not be entitled to the benefit of being Stamped, except* upon ground shown to the satisfaction of the Board, or other controlling authority aforesaid, whereby it shall be made to appear to that authority, that by refusing to affix the Stamp, the party will be subjected to great and *unmerited hardship or injustice*. In every such case, when it may be determined to affix the Stamp, the *fine* to be taken in consideration thereof, shall be *discretional*, but shall *not* be *less than ten times the value of the Stamp*.—Reg. X, 1829, Sec. xiv, cl. 5.

The *Collectors* of Land Revenue in the several districts shall investigate and *decide in the first instance, all cases of*

penalty incurred by breach of this Regulation, attaching the deed when necessary, pending investigation. On completing the investigation, they shall transmit their proceedings to the *Board* or other controlling authority, duly appointed by the Governor-General in Council, with such decision as they may pass thereon, and the *grounds* thereof fully recorded. The decision of the Collector shall be liable to be confirmed, modified, or reversed by the said *controlling authority*, whose decision shall be *final*.—Reg. X, 1829, Sec. xv, cl. 1.

All *penalties* incurred under this Regulation, and adjudged by the Revenue Authorities, as aforesaid, as well as all *balances* of cash due from vendors or from their estates, shall and may be *recovered* by the *Collectors* of Land Revenue from the persons or Officers liable thereto, or from their sureties, by the same *process*, as it is, or may be lawful to adopt *for the recovery of arrears of Land Revenue*, due from any *farmer* of land or his surety.—Reg. X, 1829, Sec. xv, cl. 2.

It shall be competent to the *Board* or other controlling authority, appointed as above described, as well as to the Governor-General in Council, to *remit any fine or penalty*, or any part thereof, that may be incurred under the rules of this Regulation; *provided*, however, that *nothing* herein contained shall be considered to *affect* the existing laws and provisions, in respect to the *forging of Stamps, or* in respect to the knowingly using or *issuing* of paper, bearing a forged or counterfeit Stamp.—Reg. X, 1829, Sec. xvi.

In addition to the duties chargeable on deeds, instruments, and writings specified in *Schedule (A)*, there shall further be levied, raised, and paid, as heretofore, in the provinces subject to the presidency of Fort William, duties on *law papers*, viz. petitions of plaint, pleadings and the like, at the rates and in the manner prescribed in *Schedule (B), which*, with the rules and provisions therein included, shall be deemed and taken to be *part of this Regulation;* and *no papers shall be filed*, exhibited, received or admitted, *in any Court* of Judicature of the description stated in the Schedule to require a Stamp, *unless the same shall be duly Stamped*.—Reg. X, 1829, Sec. xvii.

Except in the Lower Provinces, every *Vakeel*, or authorised *Pleader or Mookhtar*, attached to any Court of Judicature, who shall present, for the purpose of being filed or recorded, in any Court or Cutcherry, any paper, petition, or any deed, instrument, or document, requiring to be Stamped by the rules of this Regulation, on *unstamped* paper, *or* on paper *not* bearing the *proper* Stamp, *and not duly endorsed, or* on paper bearing a *counterfeit* Stamp, *unless* signed and *endorsed* by a vendor as prescribed, shall *forfeit five times the amount of the*

Stamp, which ought to have been used, or *five times* the *difference, in* case of the use of *improper* Stamps, as prescribed in Secs. xiii, cls. 1. 2. The said *fine* shall be imposed and *levied by the presiding Officer* of the Court, in which the said vakeel or Mookhtar may be practising, and the *amount* shall be *remitted to the Collector*, with copy of the proceedings or order, imposing the fine.—Reg. X, 1829, Sec. xviii, cl. 1; and Act XVIII, 1852, Sec. i. NOTE.—The last cited Law repeals the first, *as to the L. P.*

Except in the Lower Provinces, it shall further be competent to the *Collector* or other Officer exercising similar powers, on discovery of any irregularity of the above description, not noticed on the proceedings of the Court, *to move the Court* by petition, to be presented to the Judge of the Zillah within whose Jurisdiction such *vakeel* or other person so offending may be practising, for *infliction of the above fine*, when incurred in any Court, within the Zillah or City Jurisdiction, or, if the *vakeel so offending*, be an Officer of the *Sudder Dewany Adawlut*, then the Collector shall make application to *that Court*, through the vakeel of Government attached thereto, and the case shall be tried and adjudged by the Zillah Judge, or by the Judges of the superior Court, and their *decision*, as to whether the penalty has been incurred or not, shall be *final* —Reg. X, 1829, Sec. xviii, cl. 2, and Act XVIII, 1852, Sec. i. Note; *as above.*

It shall and may be lawful for the *Board* or other controlling authority, and for the Collectors of Land Revenue or other *Officers vested with the local charge af this branch of Reveuue*, to summon witnesses, to administer *oaths* and affirmations, and to take affidavits and affirmations, with the same powers and authority in regard to *resistance* or disobedience of their orders in this behalf, and in respect to contempts, as belong to the Zillah and City Judges; and any person, giving intentionally and deliberately, a *false deposition* on oath or upon solemn affirmation, when examined by any of the authorities or Officers aforesaid, shall be held and considered to be guilty of *perjury*, and shall be liable to be prosecuted for the same, in the Criminal Courts by the Vakeel of Government; and on conviction before a *Sessions* Court, shall incur the penalties which are or may be prescribed for that offence.—Reg. X, 1829, Sec. xix.

The *Zillah* and *City Judges shall give effect to all orders passed by the Board*, or other authority exercising the powers of control, *or by Collectors* acting under the authority hereinbefore vested in them, *when* the same may require or *adjudge confinement* in the Dewanny Gaol, of persons convicted and sentenced to penalties, or of persons who may refuse to make oath, or

affirmation, or to give evidence when legallyrequired to do so,or who may be guilty of contempt, —*Vendors* convicted of *extortion* under Sec. x, Cl. 9, shall be forwarded to the *Magistrate* of the district, to be confined in the Criminal Gaol.—Reg. X, 1829, Sec. xx.

Whenever the *Superintendent* of Stamps or his assistant, *or* any other *Officer* duly *empowered* thereto, shall proceed into the *interior*, under the orders of the Board or other controlling authority, or of the Governor-General in Council, for the purpose of inquiring into any matter, connected with the management of the Stamp Revenue, or for any other purpose, he shall be competent to exercise the *power* and authority *of a Collector of Revenue*, within the district or place to which he may so proceed, *besides* any *other powers* and functions, that may be vested in him by the Governor-General in Council.—Reg. X, 1829, Sec. xxi.

SCHEDULES.

(A)

SCHEDULE (A), referred to in Section 3, containing a Specification of the Duties chargeable on Instruments of Conveyance, Contract, Obligation, and Security for Money, and on *Deeds in general.*

1.—Agreement, Ikrar, or any Minute, or Memorandum of an Agreement concerning any matter or thing, *not otherwise charged* in this Schedule, nor expressly exempted from all Stamp duty, whether the same be only evidence of a contract or obligatory upon the party—if relating to matters *capable of valuation*, and with the value stated ..	To be charged as hereinunder prescribed for *bonds* of the same amount.
2.—Agreement for a *monthly or annual payment*	To be estimated at the amount of *ten years' payment*, or of the total sum secured, if less.
3.—Agreement to perform *any legal act*, or for a purpose *not* restricted to, or *specifying any amount*, ...	To be executed on *such stamp as the parties may determine*, but *no recovery* can be made on the instrument in any Court of Justice, of a *larger amount than* may be *covered by the stamp*, at the rate prescribed in the *Schedule for bonds.*

EXEMPTIONS:

Memorandum of agreement for the *hire of labour*.

Ditto, *all* agreements carried on *by letter, through the public dawk*, between merchants and other persons.

	At sight or on demand, or *not exceeding three months*, to be charged.		Exceeding *three months* after date, and *not exceeding one year*, to be charged.	
	Rs.	A.	Rs.	A.
4.—Bills of Exchange, Drafts, Promissory Notes, Hoondees, Teeps, Burats, and other orders, or *obligations for the payment of money*, payable (if payable within the Provinces subordinate to this Presidency) *at sight, or on demand, or at the periods* specified below, (not being deeds, instruments, or writings, *bearing the attestation of one or more witnesses*), together with all *bills* of exchange, *payable out of the said Provinces*, at whatever date.				
If for a sum of money not exceeding 25 Rs.	0	1	0	2
Above 25 rupees and not exceeding 50 „	0	2	0	4
„ 50 „ „ .. 100 „	0	4	0	8
„ 100 „ „ .. 200 „	0	8	0	12
„ 200 „ „ .. 400 „	0	12	1	0
„ 400 „ „ .. 800 „	1	0	1	8
„ 800 „ „ .. 1,600 „	1	8	2	0
„ 1,600 „ „ .. 3,000 „	2	0	2	8
„ 3,000 „ „ .. 5,000 „	2	8	4	0
„ 5,000 „ „ .. 10,000 „	4	0	6	0
„ 10,000 „ „ .. 20,000 „	6	0	8	0
„ 20,000 „ „ .. 30,000 „	8	0	12	0
„ 30,000 „ „ .. 50,000 „	12	0	16	0
„ 50,000 „ „ .. 1,00,000 „	16	0	20	0
„ 1,00,000 ..	20	0	25	0
5.—Bills of Exchange, Promissory Notes, &c., intended to be *reissued*, ...			Shall be charged, as prescribed for *promissory notes*, payable at a date *exceeding three months*.	
6.—Bills of Exchange, Promissory Notes, &c., of date, *exceeding one year*			To be charged as *bonds*.	

NOTE.—The Governor-General in Council reserves to himself the power of admitting any *Bank or Company to compound* for the Stamp duty chargeable on the promissory notes issued by it. Notice of such arrangements shall be given in the Government *Gazette*.

EXEMPTIONS:

Bills of exchange or hoondees for any sum of money, if drawn *bonâ fide* from any place distant *more than* 100 *miles* from the place where the same are made payable, and *not negotiated after acceptance*;—also *foreign bills* of exchange, drawn in sets.

Provided, however, that if *any bill* or bills of *Exchange* drawn in any part of the Continent of India, and made payable in the Provinces subject to this Presidency, shall be negotiated therein after acceptance, or be in any way transferred after acceptance to a third party, other than the acceptor and the payee of such bill or bills, the exemption shall *not hold* in respect to any such *negotiated bill* or bills, *unless* the same shall be taken to be *Stamped prior* to such negotiation; or unless there be affixed to each bill a *copy* of the same, executed on paper *Stamped* with a Stamp, to which such bill is declared *liable* in this Schedule.

Bills of exchange, drawn and Promissory notes, &c., issued by Government Officers authorized to draw *bills upon the Government Treasuries*, or to issue promissory notes, or other acknowledgments, on account of Government.

All drafts or orders for the payment of any sum of money to the *bearer*, *on demand*, *drawn upon* any bank, *banker*, or agent, residing *within twenty miles* of the place, where such draft or order shall be issued, such place being specified on the face of the draft.

BILLS OF SALE—See "CONVEYANCE" and "MORTGAGE."

7.—Bonds, Tumusooks, and other *attested obligations for the payment of money*; also Promissory Notes and Bills of Exchange, Teeps, Burats, and the like, of date exceeding one year.

		Rs.	A.
If for any sum not exceeding	25 Rs.	0	2
Above 25 rupees and *not exceeding*	50 „	0	4
„ 50 „ ..	100 „	0	8
„ 100 „ ...	200 „	1	0
„ 200 „ ..	300 „	2	0
„ 300 „ ..	500 „	4	0
„ 500 „ ..	1,000 „	6	0
„ 1,000 „ ..	2,000 „	10	0
„ 2,000 „ ..	3,000 „	16	0
„ 3,000 „ ..	5,000 „	20	0
„ 5,000 „ ..	10,000 „	32	0
„ 10,000 „ ..	20,000 „	40	0
„ 20,000 „ ..	50,000 „	64	0
„ 50,000 „ ..	75,000 „	70	0
„ 75,000 „ ..	1,00,000 „	80	0
„ 1,00,000 „ ..	1,50,000 „	100	0
„ 1,50,000 „ ..	2,00,000 „	120	0
„ 2,00,000	..	150	0

And a further duty of 100 *rupees for* every sum of *one lac, in excess of* the said amount of *two lacs* of rupees.

8.—Bonds, given as *security* for the transfer of Government securities, or for the payment of an annuity for a fixed period, or for the delivery or accounting for any matter or thing capable of being valued	Shall be charged at the rate of the *amount engaged* to be paid, or accounted for; or at the *value* of the thing to be delivered or transferred.
9.—Bonds, for *annuities* for an *indefinite* period, such as life annuities, and the like ..	Shall be charged at the rate of *ten times the yearly payment.*
10.—Bonds, when the *amount* of the money to be secured, or ultimately recovered, shall be *uncertain*, and unlimited	May be executed *on such stamp as the party may please*, but *no recovery* shall be made thereon in any Court of Justice of a *larger amount than* is covered by the *stamp.*
11.—Bonds, for the *due execution of an office*, or work, mochulkas, and the like, taken by individuals, and *all other bonds*, not otherwise charged or exempted from duty ..	*On optional* Stamp as above, with *like condition.*
12.—When the *amount* is *limited* to a certain sum	The same as on a *bond*, for such limited sum.

EXEMPTIONS.

Arbitration bonds.

Bonds, given to or by the officers of Government on account of any matter or thing of or belonging to the *Government* in its *Political or Territorial* capacity.

13.—*Security Bonds*, which may be taken by or by order of any Court, Collector, or other *Judicial or Revenue Authority*; also *razeenamahs, soolunamahs, and ruffanamahs*, filed in any suit pending in a Court of Justice, ...

To be *charged as* specified and prescribed in *Schedule (B)*, for *Law papers*.

14.—*Charter Parties*, or any Agreement of Contract, for the charter of any *ship or vessel*, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the *freight or conveyance* of any money, goods, or effects, on board of such ship or vessel, ...

If the amount payable under the deed *exceeds one thousand rupees, eight* rupees—and if *less* than one thousand rupees, according to the scale prescribed for *bonds*,

EXEMPTIONS:

Charter parties of *ships* or vessels *taken up by Government*, for the conveyance of troops or military stores, or for other *political purposes*.

15.—Contracts and *Deeds*, if *not otherwise charged, or exempted* from duty, ... As *agreements*.

16.—*Co-partnership*, Deeds of .. .. Rs. 8 0

17.—*Composition Deeds*, or other instruments of composition, between a debtor or debtors, and his, her, or their creditors, ... Rs. 8 0

18.—*Conveyances* (Kubalas, Bynamas, Hibanamas), or deeds or instruments of any kind or description whatsoever, executed for the sale or *transfer, for a consideration* of any lands, tenements, rents, annuities, or other *property, real or personal, heritable or moveable, or of any right, title, interest, or claim* to or upon any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the *principal* or only *deed*, instrument, or writing, whereby the *property* sold shall be conveyed to or otherwise *vested* in, the purchaser or purchasers, or to some other person, by his or their directions.

When the purchase or consideration-money, *therein expressed or denoted,* shall not exceed			50 Rs.	0	8
Above	50 rupees				
and not exceeding		..	100 „	1	0
„	100	„ ..	200 „	2	0
„	200	„ ..	500 „	4	0
„	500	„ ..	1,000 „	8	0
„	1,000	„ ..	2,000 „	12	0
„	2,000	„ ..	3,000 „	16	0
„	3,000	„ ..	5,000 „	20	0
„	5,000	„ ..	8,000 „	32	0
„	8,000	„ ..	12,000 „	40	0
„	12,000	„ ..	20,000 „	50	0
„	20,000	„ ..	30,000 „	64	0
„	30,000	„ ..	50,000 „	80	0
„	50,000	„ ..	1,00,000 „	100	0
„	1,00,000	„ ..	2,00,000 „	150	0
and for *every further lac* of rupees beyond two lacs				100	0

NOTE.—When, of several deeds, instruments, or writings, a *doubt* shall arise *which is the principal,* it shall be lawful for the *parties* to *determine* for themselves, which shall be so deemed, and to engross the same on paper, parchment, vellum, or the like, stamped for the prescribed *ad valorem* duty.

19.—*Provided,* however, that in all cases where there are *more deeds than one, all other deeds than the principal,* shall be charged with a like stamp to the principal deed, if of value not exceeding *eight rupees* (which sum shall be the *maximum* duty on *collateral deeds,*) and all *such collateral deeds* shall *specify by their contents, which other is the principal deed* by which the conveyance has been effected, *certifying* that it is executed in the manner, and on material, *stamped as required.*

EXEMPTIONS:

All *grants,* leases, sales, or the like, wherein *Government,* in its *Political* or *Territorial* capacity, is *a party.*

NOTE.—This exemption shall *not extend* to sales made for the recovery of *arrears of revenue or rent, or* in satisfaction of *decrees* of *Court,* in *which cases,* the purchasers shall be required to pay the prescribed duty, along with

the purchase-money, and shall receive from the officer conducting the sale, a *deed of sale* (byenama), executed on paper, impressed with a corresponding *stamp*.

EXEMPTIONS.

All transfers of *subscriptions* to any of the Government *Loans*, or other Government *Securities*, also of *Bank shares*.

20.—*Copies*—Copy or Counterpart of any deed or instrument, attested to be a true copy, and furnished to a party to the same, for the purpose of *being given in evidence* for the recovery of any sum of money, property, interest, or right secured thereby, ... — The *same duty as* prescribed for the *original deed* by this Regulation.

21.—Where such copy may be made for the *security or use* of any person *not* being a *party* to, *or* taking any *benefit* or interest immediately under, the agreement, contract, bond, deed, or other instrument, *per sheet*. 0 8 anas.

22.—*Copy or Extract* of any deed, instrument, schedule, receipt, or other matter, *annexed to any agreement*, contract, bond, deed, *or other instrument, per sheet* .. .. .. 0 8 anas.

23.—*Authenticated copies of* any *records*, letters, accounts, statements, reports, or other writings, furnished to individuals, from any of the public offices of Government, shall be written on paper of the size, and description, now used for the purpose, and called *copy-paper* at the Stamp Office, and of the value for each and *every sheet of* .. .. .. 0 8 anas.

For copies of *Judicial papers* to be given from the Courts of Justice, *Revenue Kutcherries*, &c. —*See Schedule (B)*.

EXEMPTIONS:

Copies made for the *private use* only of any person, having the custody of the original instruments, or of his or her *attorney or solicitor*, and copies of *deeds, &c., retained in public offices*, on returning the originals.

Copies of papers, which *public officers*, are *directed*, by any general regulation, *to* make, require, or *furnish, not* being *specially declared chargeable with stamp duty*.

24.—Deeds of any kind, *not otherwise particularized in this schedule*, ... As *agreements*.

25.—*Exchanges.*—Any deed, whereby *any real property* shall be *conveyed*, or surrendered, in exchange *for other property*.
If *no* sum of *money* shall be *paid, or agreed* to be paid, for equality of exchange, ..

Rs. A.
8 0

26.—And if any sum of *money be paid or agreed* to be paid for equality of exchange..

The same *ad valorem* duty, as for a *conveyance* for such sum.

27.—*Engagements* to cultivate, provide, or deliver *indigo* plant, or to produce, manufacture, provide, *or* deliver *any other article of commerce*, in consideration of *advance made* .. ..

Shall be charged on the amount advanced at the rate of *Bonds*.

28.—*Leases.*—Any lease made in perpetuity, or for a term of years or period determinable with one or more lives, or otherwise contingent, in *consideration of a sum of money paid in the way of premium, fine, or the like, if without rent* .. ..

The same duty as for a *Conveyance* or *sale*, for a sum of the amount of such consideration.

29.—Any *Lease* of Lands, Houses, or other Real Property *at a monthly or yearly rent*, without any payment of any sum of money, by *way of fine or premium*.

	For a period not exceeding one year.	For a period, *exceeding one year.*
		Rs. A.
Where the rent calculated for a *whole year* shall exceed twelve rupees, but *not exceed* twenty-four rupees ..	0 4	0 8
Exceeding 24 Rs. but *not exceeding* 50 Rs.	0 8	0 12
„ 50 „ „ .. 100 „	0 12	1 0
„ 100 „ „ .. 250 „	1 0	2 0
„ 250 „ „ .. 500 „	2 0	4 0
„ 500 „ „ .. 1,000 „	4 0	8 0
„ 1,000 „ „ .. 2,000 „	8 0	12 0
„ 2,000 „ „ .. 4,000 „	12 0	16 0
„ 4,000 „ „ .. 6,000 „	16 0	20 0
„ 6,000 „ „ .. 10,000 „	20 0	32 0
„ 10,000 „ „ .. 50,000 „	32 0	64 0
Above 50,000 ..	64 0	80 0

30.—Any *Lease* of Lands, Houses, or other *Real Property*, stipulating for a *yearly rent, and* granted in consideration of a *fine or premium*, ...

Shall be charged with a duty equal to both *ad valorem* duties above provided, viz., *both as Lease and conveyance*.

31.—The *Counterpart* of any Lease, *i. e.*, the Kubooleut, or the like, ...	Shall be executed on paper, vellum, or parchment, bearing the *same* Stamp *as the original.*
EXEMPTIONS:	
All *Leases* where the annual rent shall *not exceed twelve Rupees,*	
All *Leases* or Pottahs given by authority of *Government, or of the Board* of Revenue, with their *counterparts; and all security bonds,* executed as part of the same transactions; also all *Leases,* viz., Pottahs and Kubooleuts, executed and exchanged *with ryots, and other actual cultivators of the soil,*	
NOTE.—*Leases,* Pottahs, Kubooleuts, or other instruments of contract *between* Zemindars, Talookdars, or other *holders or proprietors of Land,* whether subject to the payment of Revenue to Government or otherwise, or between Farmers, Kutkenadars, Ijaradars, or other Tenants, *on one hand, and any other* Talookdar, Kutkenadar, Ijaradar, or other *Leaseholder, intermediate between the ryots or actual cultivators,* and the Sudder Mulguzar or Lakhirajdar, *on the other,*	Shall be written on Stamped paper of the value above prescribed for *Leases.*
LETTERS, OR POWERS OF ATTORNEY, MOKHTARNAMAS, &C., VIZ.:	
32.—Powers to perform any one special, that is to say *particular Act, or* the *Acts* connected with *one particular suit, case, or transaction,*	Rs. A. 0 8
33.—General, *i. e., not restricted as above,* to one case, suit, or transaction, ...	4 0
EXEMPTIONS:	
Wukalutnamahs, Mokhtarnamas, and other *powers,* required to be filed *for the conduct of suits* pending before the Native Courts of Judicature, or before the Revenue Authorities, for the rule regarding which, *see Schedule (B), "Law Papers,"*	
34.—*Letters of License* from Creditors to Debtors, ...	8 0
35.—*Mortgages*—Any Deed of Mortgage or Conditional Sale, Kutkubala, Bye Bil Wufa, Bhog-Bundhuk, &c., *with or without possession given,* of or for any lands, estates, or	Shall be charged after the same manner, and at the same rates, as if, in lieu of such

property, real or personal, intended *as a security* for money due, or to be lent thereupon; also, any deed or contract, accompanied *with a deposit of title-deeds,* to any property, where the same may be made as *a security* for payment of money due or lent at the time, ...	deed of mortgage or the like, *a Bond* had been taken for the sum due or lent at the time.
36.—*Deeds of Mortgages,* or the like, given as security for the transfer of *Government securities,* or for the payment of an *annuity for a fixed period,* or for the delivery at a future date of any matter, *or thing capable of being valued,*..	Shall be charged at the above rate for the *total amount assured,* or for the *bonâ fide value.*
37.—*Deeds of Mortgage* given for the security of *annuities for an indefinite period,* such as life annuities, and the like, ...	Shall be charged at the rate of *ten times the annual payment.*
38.—Where the total *amount* secured by such mortgage is *unlimited,*	The deed may be executed on *such Stamp as the party may choose,* but no further sum can be recovered thereon than may be covered by the Stamp.
39.—*Where* it may be stipulated that the *amount* secured by such mortgage *shall not exceed* a certain sum, ...	At the rate of such *limitation.*
NOTE.—When a *bond* may have been already taken for the amount secured, or where, from any other cause, *the mortgage* shall act *merely as a collateral security* to some other transaction already charged with the *ad valorem* duty thereupon, the same being specified in the body of the deed of mortgage, ...	The deed to be charged as *a Collateral deed.* See *Note* after "*Conveyances.*"
Likewise, in case of there being *more deeds than one* required to execute the mortgage in the manner desired by the parties, the *principal deed* only shall be charged with the *ad valorem* duty;—and all other deeds connected with the same transaction, ...	Shall be charged as prescribed in the rule for *Collateral deeds,* under head "*Conveyance.*"
40.—*Mortgages, Assignments, Acknowledgments, or Promissory Notes,* granted to the Treasurer or other officer of the *Bank of Bengal on account of the Bank,* or to any private banker or agent, *for loans* or advances made on the deposit of Government securities, bullion, plate, jewels, or other goods, ..	To be charged as *Promissory Notes.*

	Rs.	As.
41.—*Partitions by private agreement* of heirs and co-sharers, *or made by public officers*, of estates or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, *when a sharer's portion exceeds in value eight hundred rupees*, then on every such sharer's copy of the deed of partition, ...	8	0
When the sharer's portion shall *not exceed eight hundred rupees*, then if not exceeding *one hundred rupees*, ...	0	8
Exceeding 100 rupees, and *not exceeding*, .. 200 Rs.	1	0
„ 200 „ „ .. 400 „	2	0
„ 400 „ „ .. 600 „	4	0
„ 600 „ „ .. 800 „	6	0
And if any sum or sums of *money shall be paid*, or agreed to be paid *for equality* of partition, ...	The *principal deed*, stipulating for such payment, shall be charged besides, with the *ad valorem* duty prescribed for a *conveyance* or sale for an equal sum.	
42.—*Policy* of *Assurance, or Insurance*, or other instrument, by *whatever name* the same shall be called, whereby an insurance shall be made upon any *life* or lives, *or* upon an *event, depending upon any life* or lives.		
Where the sum insured *shall not exceed* 5,000	4	0
Exceeding 5,000 *not exceeding* 10,000	8	0
„ 10,000 „ 20,000	12	0
„ 20,000 „ 50,000	16	0
Above .. 50,000	20	0
43.—*Policy* of *Insurance* of any *ship*, vessel, sloop, lighter, boat, *or the like*, or of any *goods* or property on board, or upon the *freight* of any ship, vessel, sloop, lighter, boat, or the like, or upon any *other interest* relating thereto, or upon any voyage, where the *premium shall not exceed two per cent.* on the sum insured, if the whole *sum insured* shall *not exceed one thousand rupees*, ...	0	8
If the sum insured *exceed one thousand rupees*, then for every one thousand rupees, and		

	Rs.	As.
also for any *fractional part* of one thousand rupees, whereof the same shall consist, ..	0	8
Where the *premium shall exceed two per cent.* on the sum insured, if the whole sum shall not exceed one thousand rupees, ...	1	0
If the *sum* insured *exceeds one thousand rupees*, then for every one thousand rupees, and also for any *fractional part of* one thousand rupees whereof the same shall consist, ..	1	0
Promissory Notes.—See "Bills of Exchange."		
Promissory Notes payable at a period *exceeding one year* after date.—See "*Bonds.*"		
44.—*Promissory Notes* for the payment of any sum by *instalments, i. e., Kistbundees*, or for the payment of *several sums at different dates*, so that the whole of the money to be paid shall be *definite and certain*, ..	The same duty as would be chargeable on *Bonds* for the whole amount.	
All receipts for money deposited in *any Bank*, or in the hands of any banker *or agent*, if the same shall *stipulate for* the payment of *interest* upon the money so deposited, or in hand, shall be deemed and taken to be *Promissory notes.*		
45.—*Receipts or Discharges*, given for any, or *upon the payment of, any sum of money*—		
Exceeding 50 rupees,	Rs.	As.
not exceeding .. .. .. 100 Rs.	0	2
„ 100 „ „ 200 „	0	4
„ 200 „ „ 500 „	0	8
„ 500 „ „ 1,000 „	0	12
„ 1,000 „ „ 2,000 „	1	0
„ 2,000 „ „ 3,000 „	1	8
„ 3,000 „ „ 5,000 „	2	0
„ 5,000 „ „ 8,000 „	2	8
Above 8,000 „ „	4	0
Also *for* a receipt *in full of all demands*, ..	4	0

And *any* instrument, note, memorandum, or *writing*, given upon the payment of money, whereby any *money*, debt, or *demand*, or the part thereof therein specified, shall be *expressed* or acknowledged to have been *paid*, settled or otherwise *satisfied*, shall be deemed to be a receipt for the amount so declared to be paid or satisfied. The *duty is to be paid by the party giving the receipt*, and *if* a Stamped receipt be *refused*, the *party* making the *payment*

may *provide the Stamp, deducting the value* thereof from the sum due.

And if *any such* instrument or other *writing* shall contain a *general acknowledgment* of the settlement of debts, accounts, or other demands, *without specifying the amount* thereof, such instrument or writing *shall be deemed* and taken to be a receipt *in full* of all demands, and *charged accordingly.*

And if payment be made *by* delivery of a *bill* or bills of exchange, draft or drafts, promissory note, *or* the like *securities of money,* the receipt or *acknowledgment,* given thereupon, shall be deemed to be *a receipt within* the meaning of *the Schedule.*

EXEMPTIONS:

Receipts for *money paid* or received, by any officer of Government, *on account of Government.*

Receipts or discharges *for the rent of land,* granted by any Zemindar, Talookdar, farmer, or other *Malguzar,* or by any holder *or proprietor* of land held *exempt from the payment of Revenue,* or by any Mofussil talookdar, ijaradar, kutkenadar, *or* other *leaseholder,* or by the gomashta, factor, *or* other *agent of such* Zemindar, or other person aforesaid, *to a ryot or other actual cultivator, for the rent of land tilled by him.*

NOTE.—*Receipts* or discharges granted *by* any Zemindar, Talookdar, or other holder or proprietor of land, or by any Farmer, Kutkenadar, Ijaradar, or other *tenant, to any other* Talookdar, Kutkenadar, Ijaradar, or other *leaseholder, intermediate between the ryots or actual cultivators, and the Sudder Malguzar or Lakhirajdar,* shall be written *on Stamped paper* of the kind and rates, above described.

EXEMPTIONS.

Receipts and discharges given for the purchase-money of any *Government securities or shares of Bank of Bengal.*

Receipts and discharges given for *money deposited in any bank,* or with *any agent, to be accounted for on demand, provided no interest* be stipulated, as payable thereon.

(*If interest* be stipulated, such receipt shall be chargeable as a *Promissory Note*, as above provided,)

Receipts or discharges written *upon* promissory notes, bills of exchange, drafts or *orders*, for the payment of money, *duly Stamped.*

Receipts and discharges given to Gomashtas and others, being *servants* of the party, giving the receipts, in acknowledgment of the *performance of service*, or of the said servants having rendered *account* of trusts and moneys committed to them.

Letters by the post, acknowledging the arrival of any Promissory Notes, Bills of Exchange, or other *Securities for money.*

Receipts or discharges *written upon or* contained in any mortgage-deed, or other security, or any deed of conveyance, settlement, or other *instrument* duly Stamped, *acknowledging the receipt of the consideration money*, therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

46.—*Settlements*, Marriage Settlements, &c., viz.:

Any *deed* or instrument, *whereby* any sum or sums of money, of any Government securities, or other *property*, real or personal, *shall be settled or agreed* to be settled upon, or for the benefit of any person or persons, in any manner whatsoever .. ..

Shall be charged with the *ad valorem* duty chargeable *for a Bond*, for the amount of value settled, or agreed to be settled; or in cases in which the *value* shall be *indeterminate*, at *the rate chosen by the parties*, under the rule and condition prescribed for *Bonds* and agreements.

Deeds of Gift and Dower, whether to take effect on the instant, or at a future period, determinate or indeterminate, ...

Shall be charged as *Deeds of settlement.*

.. ..

EXEMPTIONS:

Wills, testaments, and the like, together with *deeds* merely *declaratory of trust, pursuant to* any previous settlement, deed, or *will.*

GENERAL EXEMPTION; AND RULE:

Deeds, instruments, and writings of any kind, in which Government or any Board,

Commission, Court, or public *Officer of Government*, may, in a public capacity, be a party, shall not be chargeable with any Stamp duty.

NOTE.—The foregoing *exemption* shall *not extend to deeds*, instruments, *and writings* executed to or *by the Court of Wards, Local Agents*, or officers acting under their authority; *such* transactions *being* liable to a Stamp duty, *like* the transactions of *individuals*.

GENERAL RULE:

If any deed, instrument, or *document*, specified in *this Schedule, shall not be contained in one sheet* or piece of paper, or other material, it shall suffice that *one sheet shall bear the Stamp, provided that the signature or seals of the parties and witnesses be thereupon.*

SCHEDULE.

(B.)

SCHEDULE (B), referred to in Sec. xvii. containing the Specification of Duties, chargeable on *Law Papers.*

NOTE.—The Stamps required in the Principal Sudder Ameen's Court are, under Sec. xxv, Reg. V, 1831, the same as those required in the Zillah Court. The Stamps to be used in the Moonsiffs' Court are declared by Secs. vii and ix, Reg. V, 1831. It is provided by Secs. v and vii, Act XXV, 1837, and Sec. v, Act IX, 1844, that suits, within the *competency* of a Sudder Ameen or Moonsiff to decide, shall be subject to the same Stamps although tried in other Courts. Defendants in *pauper* suits are exempted from Stamp duties by Sec. ii, Act IX, 1839, and *soldiers' suits* are exempted by Secs. iii and iv, Act XV, 1845.

1.—*Bail Bonds*, Mochulkas, Recognizances, Security Bonds *(hazir or fa'il zamin)* whether of a *specified amount*, or with a penalty of a specific sum of money, *or of indefinite amount*, when furnished and *filed under* special *order of a Court of Justice, Civil or Criminal, or of any officer* exercising *Judicial powers*, ...	To be charged as *Petitions* to the Court or Authority ordering the same.
When executed *between individuals, not by order of Court*, ...	To be charged as *Bonds.* See Schedule (A).

EXEMPTIONS:

Mochulkas taken on *the release of persons* from the foujdary or *Criminal gaol*; also mochulkas and *recognizances* taken from prosecutors and witnesses, to secure attendance at *Criminal trials.*

2.—*Copies of Decrees in all regular suits*, for an amount *exceeding one hundred and fifty rupees*, calculated in the manner explained under the head "*Plaint*:"

	Rs.	A.
When passed in the Courts of the *Zillah and City Judges, or by Principal Sudder Ameens, or Sudder Ameens*, empowered to decide the same, ...	1	0
In the *Provincial Courts of Appeal* (Zillah and City Courts), ...	2	0
In the *Sudder Dewanny Adawlut*, ...	4	0

See Sec. ix, Reg. V, 1831.

3.—*Copies* of *Revenue and Judicial Proceedings*, of Accounts, Statements, Reports, *or the like*, filed *on record*, and *taken out for use* or reference, or when left on the proceedings in *place of originals withdrawn*, per *sheet*, ... 0 8

And each sheet shall be of a *size* not exceeding that fixed for *copy paper* (No. 3 of the Stamp Office), and shall be written on one side thereof only.

4.—*Copies of the Proceedings of the Sudder Dewanny Adawlut, prepared for transmission to England, in appeals to the Queen in Council, on paper, per sheet, of* 2 0

Repealed by Act XI, 1839.

EXEMPTIONS:

In all cases, in whatsoever Court tried, involving an amount *not exceeding one hundred and fifty rupees, copies of decrees shall* be *exempt* from Stamp duty.

5.—*Exhibits*—when filed or entered on the proceedings of any *regular suit*, shall be accompanied by a petition, durkhaust, or *application*, stamped according to the number, *at a rate for each exhibit of*—

	Rs.	A.
In the Courts of *Principal Sudder Ameens, or Sudder Ameens*, ...	0	8
In the Courts of the *Zillah and City Judges*,	1	0

	Rs.	As.
In the *Provincial Courts*, before *Commissioners* of Revenue and Circuit; or in *the Sudder Dewanny Adawlut*, ...	2	0

See Sec. ix, Reg. V, 1831.

EXEMPTIONS:

In all cases, in whatsoever Court tried, involving an amount *not exceeding one hundred and fifty rupees*, calculated in the manner described under the head "Plaint," the filing of exhibits shall be *exempt* from Stamp duty.

6.—*Mokhtarnamas*, Wukalutnamas, and other *Powers*, required to be filed for the conduct of suits, *regular and summary*, or of proceedings of any kind, pending before the Native *Court* of Judicature, *or* before the *Revenue* Authorities .. .. .. — To be charged as prescribed for *Petitions*, presented to those Courts and Authorities.

EXEMPTIONS:

Mokhtarnamas, executed by *Native officers and soldiers*, belonging to the Regular Corps, on the Military Establishment of the Presidency of Fort William.

See Act XV, 1845.

7.—*Petitions*, Durkhausts, or Applications, addressed to any of the undermentioned authorities, *in relation to matters, pending* before them *in their official capacities*, when *not* otherwise *specified* or provided for *in the Schedule:*

If to a *Principal Sudder Ameen, Sudder Ameen, (or Moonsiff?)* or to a *Collector of Land Revenue or of Customs, or to an Officer of the Salt and Opium Department, exercising judicial powers, or to a Magistrate, Joint Magistrate*, or to a *Zillah or City Adawlut, per sheet*, ...	0	8
If to a *Provincial Court of Appeal*, or *Commissioner of Revenue and Circuit*, or other authority, exercising *powers superior* to the *Zillah Adawlut, per sheet*, ...	1	0
If to the *Sudder Dewanny or Nizamut Adawlut*, or to the *Sudder Boards of Revenue*, per *sheet*, ...	2	0

EXEMPTIONS:

All charges and *informations respecting crimes* and offences, *not bailable* under the Regulations.

Petitions from prisoners *convicts*, persons under examination, or otherwise in duress, or *under restraint of the Court or its officers.*

Petitions of *appeal* presented to Magistrates against *chowkeedarry* assessment.

Communications made to *Magistrates* in regard to *Police* matters, *not* intended *for record.*

Petitions to *Collectors* or officers making *Settlements* relating to matters connected with the *assessment* of lands, the ascertainment of *rights*, or to other *matters affecting the settlement* of the Government Revenue, on Land; if presented, *pending the formation of such settlements.*

Petitions to *Boards* or *Commissioners of Revenue*, relating to the *same.*

8.—*Plaint, Petition*, of—in Suits and Appeals instituted in *any Native Court*—for the recovery of any sum of money, or to obtain possession of any interest, matter, or thing, If the amount or value of the property claimed shall *not exceed* .. 16 Rs. 1 0

Above	16	rupees, *not exceeding*		32	„	2 0
„		..				
„	32	„ ..		64	„	4 0
„	64	„ ..		150	„	8 0
„	150	„ ..		300	„	16 0
„	300	„ ..		800	„	32 0
„	800	„ ..		1,600	„	50 0
„	1,600	„ ..		3,000	„	100 0
„	3,000	„ ..		5,000	„	150 0
„	5,000	„ ..		10,000	„	250 0
„	10,000	„ ..		15,000	„	350 0
„	15,000	„ ..		25,000	„	500 0
„	25,000	„ ..		50,000	„	700 0
„	50,000	„ ..		1,00,000	„	1,000 0
„	1,00,000	„ ..		..	..	2,000 0

NOTE.—In suits for lands, paying Revenue to Government, if forming one entire *Mehaul*, or a specific portion thereof, with a *defined Jumma*, the value shall be assumed in the *Ceded and Conquered Provinces, including Cuttack*, at the amount of the *Annual Jumma payable* to *Government*, on account of the Mehaul, or portion thereof, as aforesaid;—and where the *land has been assessed in perpetuity*, at *three times the amount of the Annual Jumma.*

In suits for *Lakhiraj lands, i. e.*, lands not paying Revenue to Government, the value shall be assumed at *eighteen times the amount of Annual rent*, by computation.

In suits for *damages*, compensation for injury, loss of caste, and the like, the amount shall be computed *at the rate assumed by the Plaintiff*.

In suits for houses, gardens, and other *things of value, real or personal, not of the descriptions before specified*, as well as for any interest in *Malguzaree land, not capable of valuation* under the above rule, the amount shall be computed, *according to the estimated selling price;* and every *plaint* shall *specify* the *value* of the thing claimed; and *if* the value thereof be *understated*, in the proportion of *ten per cent.*, and the Plaintiff have *not*, before completion of the pleadings, filed a second or *duplicate plaint on stamped* paper, *equal to the difference*, under the rule contained in Clause 1st, Section vii, Regulation XXVI, of 1814, the *Defendant shall be entitled*, on adducing proof of the same, *to obtain a Nonsuit; to which effect the Courts are hereby required to pass Judgment*, in such cases, anything in the existing Regulations to the contrary notwithstanding.

9.—*Pleadings*, Judicial, every Answer, Replication, Rejoinder, and Supplementary Pleading, filed in any Suit, shall be written, as follows:

	Rs.	A.
In the Courts of the *Principal Sudder Ameen*, or *Sudder Ameen* on paper of value ..	0	8
In the *Zillah and City Courts*, ...	1	0
In the *Provincial Courts of Appeal* and in the *Sudder Dewanny Adawlut*, ...		
See Sec. ix, Reg. V, 1831; Sec. iii, Reg. VII, 1832, and cl. 1, Sec. x, Act XV, 1853.	4	0

NOTE.—The *Pleadings* in *extraordinary Courts*, shall be regulated by the *rules* of practice *established*, or that may be established, *by those Courts respectively*.

EXEMPTIONS:

In all cases, in whatsoever Court tried, involving an amount *not exceeding one hundred and fifty Rupees*, calculated in the manner

described under the head "*Plaint*" the pleadings shall be exempt from Stamp duty.

10.—*Razeenamahs*, Rufanamahs, Sooluhnamahs, or the like, that is to say—

Any written application, whereby, or according whereunto, a *suit* pending in a Civil Court shall be *adjusted*, or be capable of adjustment, *without argument in Court*, and *award of the presiding Judge* or other Officer, ...

Shall bear the Stamp required for a *Pleading* in the Court wherein it may be filed.

If the suit be dismissed on such application, *before the pleadings have been completed, and the case called up*, the Plaintiff shall be entitled to claim from the Court a *Certificate* stating the amount of Stamp duty paid on the plaint, with specification of the number and endorsement of the paper filed, on presenting which to *the Collector of the district*, the *Plaintiff shall be entitled to receive back the entire amount of the said Stamp duty: provided always there be no exception taken to the paper or endorsement thereon.*

If the *pleadings have been completed, and the case has been called up for decision, or is on the list of causes ready for hearing*, the Plaintiff shall receive a *certificate* as above, *for half of the amount* of Stamp duty paid *on* the plaint.

If the adjustment by razeenamah or sooluhnamah *be such as to require decree* to pass, *on which process of execution can be taken out*, the Plaintiff *shall not be entitled to any refund* of the Stamp duty so paid.

11.—*Witnesses;* Petitions, or Applications for the summoning or examination of witnesses, according to the number of persons named; .. ..

To be charged as *Exhibits*.

And *no witness* shall be *summoned* or examined in a regular suit, *unless* his *name is included in a petition, or* application in writing, given in as above.

RULE.

Nothing herein contained shall be deemed or considered to alter or *affect the rules* in force in regard *to paupers.*

STAMPS: *Laws after* 10 *of* 1829; *Law Papers and Pleadings in Moonsiffs' Courts; in Principal Sudder Ameens' ditto, Judge's ditto; Transfer of Suits; Paupers; Her Majesty in Council; Military; Review.*

In *suits* instituted *before the Moonsiffs*, the plaints shall be written upon Stamp paper agreeably to the *rates specified in Schedule B*, referred to in Sec. xvii, Reg. X, of 1829; Reg. V, 1831, Sec. viii, cl. 2.

In order to equalize the Stamp duties, chargeable on *Law papers*, in the Courts of the Moonsiffs, the rules and exemptions specified in Nos. 2, 4, 5, and 9, in Schedule B, referred to in Sec. xvii, Reg. X, of 1829, are hereby modified, as follows.—Reg. V, 1831, Sec. ix, cl. 1.

In all suits tried in the Courts of the *Moonsiffs*, the *pleadings*, the *applications* of parties for the filing of *exhibits*, as well as for the attendance of *witnesses*, and the *copies of decrees*, need *not* be written *on Stamp paper*.—Reg. V, 1831, Sec. ix, cl. 2.

The *exemptions* contained *in the foregoing* Clause shall *not* be held *applicable* to any *original suits or appeals*, of whatever amount, which may be *instituted in the Zillah or City Courts* subsequently to the date, fixed for the operation of this Regulation, whether those suits be tried by the Zillah or City Judges, or be referred by them for trial to the Principal Sudder Ameens, or Sudder Ameens.—Reg. V, 1831, Sec. ix, cl. 3.

NOTE.—The foregoing Clause would seem to limit the effect of the exemptions, in the Clause preceding it, to suits instituted before the promulgation of Reg. V, 1831, which was passed on the 1st November, 1831. The provision contained in the following Section of Act XXVI, 1852, however, appears to recognize the dispensing rules above referred to, as still in operation.

Nothing in this Act contained shall be construed so as to repeal or otherwise affect the rules, regarding the dispensing with the use of Stamp paper, on certain documents in the Courts of the Moonsiffs contained in Sec. ix, cl. 2, Reg. V, of 1831; Act XXVI, 1852, Sec. v.

The duties chargeable on *Law papers* in the Courts of the *Principal Sudder Ameens* shall be regulated, according to the rates fixed in Schedule B, referred to in Sec. xvii, Reg. X, of 1829, for the Courts of the Zillah and City Judges.—Reg. V, 1831, Sec. xx.

So much of the rule contained in Schedule B, Regulation X, of 1829, as prescribes that the pleadings in the Courts of the Zillah or City Judges shall be written on paper of *one Rupee* value, is hereby modified, and the pleadings in the Courts of those Officers shall be written on paper of the value of *four Rupees* wherever it has been or may be resolved to introduce the provisions of Regulation

V, 1831, *except in original suits for property, not exceeding one thousand Rupees,* in value or amount; *and in cases of appeal* from the decisions of *Sudder Ameens and Moonsiffs. In such cases,* the pleadings shall continue to be written on Stamp paper of only *one Rupee* value.—Reg. VII, 1832, Sec. iii.

Whenever a Zillah or City Judge shall refer for trial to a Sudder Ameen or Principal Sudder Ameen, a suit within the competency of a Moonsiff to decide, such suit shall be subject to the same rules in regard to Stamp duties, as the said suit would have been subjected to, had it been received by the Moonsiff in the first instance.—Act XXV, 1837, Sec. v.

Whenever a Zillah or City *Judge* shall *refer* for trial to a *Principal Sudder Ameen, a suit* within the competency *of a Sudder Ameen to* decide, such suit shall be subject to the same rules, in regard to *Stamp duties as* the said suit would have been subjected to, had it been referred to and tried by the *Sudder Ameen, in the first instance.*—Act XXV, 1837, Sec. vii.

In all suits, which in respect to value are cognizable by a *Sudder Ameen, the same Stamps* shall be sufficient *in any other Court, as* would have been *sufficient in the Court of Sudder Ameen.*—Act IX, 1844, Sec v.

No Stamps required for cases in formâ pauperis.—Act IX, 1839, Sec. ii.

No Stamps required in appeals to the Queen in Council. —Act XI, 1839.

No Stamps required for cases in which Native Officers and Soldiers are parties.—Act XV, 1845, Secs. iii to v.

A petition for the *review* of an order, rejecting a special appeal, shall be written on paper stamped with a Government Stamp of the value of *two rupees* a sheet.—Act XVI, 1853, Sec. ix, cl. 3.

STAMPS: *Calcutta only; Reg.* XII, *of* 1826; *Management; Office; Dies; Collectors; Duties; Liablities; Indents; Venders; Materials of individuals; Discount; Certificate; Schedule; Accounts; Cash; Sales; Endorsement; Delay; Extortion; Security; Vendor's death; or resigning; Destroyed or injured Stamps; Indequate Stamps; Penalties; Forgery; Not duly endorsed; Excess; Oaths; Schedules.*

A *Stamp duty* shall be levied, raised, and paid within the precincts of the City of Calcutta, upon the deeds, instruments, and writings, and *according to the rates specified in the Schedule annexed to this Regulation,* from and after the 1st May, 1827; and *no instrument,* deed, or writing of the descriptions *specified in the said Schedule* (saving of course what may be therein declared be exempted) *shall be written,* or printed on any vellum, parchment, paper, tar leaf, or other material applicable to such purpose, *except* the same shall have been *duly Stamped* according to the rules

of this Regulation.—Reg. XII, 1826, Sec. ii.

The duty hereby directed to be levied, raised, and paid in Calcutta, shall be under the care and *management of* the *Board of Revenue* at the Presidency, or of such other Commissioner or Commissioners as the Governor-General in Council may, from time to time, appoint; and on notice of such appointment being given in the Government Gazette, the Commissioner or Commissioners shall possess and exercise all the powers and authorities relative to Stamps, vested in the Board of Revenue by this or any other Regulation, which may hereafter be enacted.—Reg. XII, 1826, Sec. iii.

A *Stamp office*, at which *Stamps*, of the several descriptions provided for by this Regulation, shall be prepared and kept *in store*, shall be established at such house, building, or place within the City of Calcutta, as the Governor-General in Council may deem suitable for the purpose, and the same shall be under the charge of an Officer to be nominated *Superintendent of Stamps in Calcutta*, who shall, in all matters connected with the execution and due enforcement of this Regulation, be subject to the orders of the Board of Revenue. The Superintendent shall keep an *exact account of* all Stamps, impressed or manufactured by the Government Officers, as well as of all issues from the *depôt*, and of the *quantity of stamped paper*, vellum, or parchment of *each description*, remaining in store: he shall likewise prepare and submit to the Board of Revenue such *periodical reports and statements* as may be required by that authority.—Reg. XII, 1826, Sec. iv.

For every sum charged, or purported to be charged, as Stamp duty, on any vellum, parchment, paper, or other material, *two Stamps* shall be impressed on such material, *each* of which shall *specify* in the English, Persian, and Bengalee character, the *amount of* the sum charged—*one* of the said Stamps shall be affixed at the *Stamp* Office, and shall *bear*, besides the value as above, the words "*Stamp Office*," in the English character, *with* any *further device* or legend which the *Board* of Revenue may see fit to *direct*. The *other* impression shall be a *Counter-stamp*, to be impressed at the General Treasury, bearing similarly, *along with the amount* of duty levied, the words "*General Treasury*," in English. *No stamped paper shall be used* for any purpose, for which the same may be required by this Regulation, *except* such, as may bear *both impressions* as above directed, together *with the signature of the vendor, distributor, or other authorized person*, as hereinafter prescribed.—Reg. XII, 1826, Sec. v, cl. 1.

It shall be the duty of the Board of Revenue or other authority exercising the power of that *Board, to provide* or

cause to be provided proper and sufficient *Stamps, or dies,* for expressing and denoting the several duties and rates, specified in the Schedule annexed to this Regulation; and it shall be competent to the Board of Revenue, or other authority aforesaid, if they shall judge it expedient, to direct the employment *of two or more Stamps,* to denote the amount chargeable on any single piece of vellum, parchment, paper or other material; *provided,* however, that the *Stamps* impressed *at the Stamp-Office* of the Superintendent of Stamps, or other place appointed in lieu of it, shall always *correspond* in *number* and *value with the Counter-Stamps,* impressed at the General Treasury; and that all dies shall, besides the words denoting their value, contain the following words, that is to say, those used at the Office of the Superintendent of Stamps, or other place aforesaid, shall contain the words "*Stamp-Office,*" and the Counter-Stamp impressed at the General Treasury, shall similarly contain the words "*General Treasury.*"—Reg. XII, 1826, Sec. v, cl. 2.

The said *Board,* or other authority, shall have the *power* of at any time *changing* or altering such *dies,* and of regulating the size, shape, manner, and matter of the impressions, at discretion, *provided* that the *Stamp* to be affixed at the Stamp-Office do always contain in *plain and legible characters* the *legend* prescribed for it in the preceding Clause, and that the Counter-Stamp of the Treasury do similarly contain it's legend: *provided* also, that the Board of Revenue, or other authority aforesaid, shall, in the exercise of the powers and functions vested in them by this Regulation, be guided by such special directions as they may receive from the Governor-General in Council, in the manner heretofore used in all matters and things belonging to the management of the Public Revenue.—Reg. XII, 1826, Sec. v, cl. 3.

An Officer, being a *Civil Servant* of the Honourable Company, shall be especially appointed by the Governor-General in Council to *take charge of the Collection* of the Stamp duty within the City of Calcutta; such Officer shall provide for the sale and distribution of the Stamps, being *answerable to Government for the amount of duty* chargeable upon each and every paper, vellum, or parchment received by him for distribution. The Collector of the Calcutta Stamp duty shall receive such salary or other remuneration, as may be appointed by the Governor-General in Council. He shall, in all things connected with the collection of this duty, be subject to the orders of the Board of Revenue, and shall keep such *accounts* and in such forms, as may be prescribed by that authority.—Reg. XII, 1826, Sec. vi, cl. 1.

The Collector of the Stamp duty shall hold his *Office,* either

in *the same house* with the *Stamp-Office, or as near to that Office* as may be practicable. He shall, at all times, be *supplied with Stamps upon indent*, by the Superintendent, to whom he shall grant receipts in duplicate.—Reg. XII, 1826, Sec. vi, cl. 2.

It shall be the special duty of the *Collector* of Stamps to *select* proper *persons, resident* in different parts of the town, *for* the purpose of *vending* and distributing Stamps on the part of Government. The appointment and removal of such vendors shall be ordinarily made at his recommendation, by the authority of the Board of Revenue. *Provided*, however, that nothing herein contained shall be construed to preclude the Board of Revenue, or the Governor-General in Council, from causing licenses to be granted, without any recommendation from the Collector, whenever they shall see fit to issue to him directions to that effect, under the general powers exercised by the Board and by Government, over all subordinate officers employed in the management or collection of the public Revenue.—Reg. XII, 1826, Sec. vi, cl. 3.

Every vendor shall be furnished with a *license* under the seal and signature of the Collector; and the *appointment* of any one to this duty, as well as the *withdrawing* of any one's *license* or other discontinuance of his authority to vend, by resignation, death and the like, shall be *notified in the* Government *Gazette*, for general information.—Reg. XII, 1826, Sec. vi, cl. 4.

No person, *not licensed* after the manner provided in the preceding Clause, (unless he should be otherwise specially authorized by the Board of Revenue), *shall* be competent to *expose stamped paper*, parchment, or other material *publicly to sale;* and any one offending in this respect shall *forfeit to* Government, for the *first offence*, the sum of *rupees five hundred*, and for the second, or any *subsequent offence*, the sum of *one thousand* rupees. But *nothing* herein contained shall be deemed to *prevent* persons, having *duly purchased stamped paper* from the authorized vendors of Government, or having otherwise obtained such paper from the Stamp-office, after the manner hereinafter provided, *from transferring the same* to others, at *a price equal to the amount of duty* denominated by the Stamp or Stamps impressed thereon: *provided*, however, that every person, who may so transfer Stamped paper, shall *endorse* the same with his signature, *in the presence of one or more creditable persons*, and the *proof* that the paper was purchased as aforesaid shall *lie with the person so transferring it*. *Provided* also, that if any individual shall *sell or buy* any Stamped paper or other material bearing, or purporting to bear the Government Stamp, for *a less price* than the amount of the duty denominated by the

Stamp or Stamps thereon impressed, he shall *forfeit* for each and *every piece* of paper, or other material so bought or sold by him, the sum of *fifty Rupees*.—Reg. XII, 1826, Sec. vi, cl. 5.

For the convenience of merchants and others, who may be *desirous of having, at all times*, in their possession, *papers*, parchments or the like, *stamped with various impressions, to be used as occasion may require*, in the drawing up of instruments of any of the descriptions required to be executed *on materials impressed with the Government Stamps;* it is hereby provided, that any *person desirous of* obtaining a supply of *stamped paper*, or other material, shall, *on application to the Collector of Stamps, and the payment into his Treasury* of the amount chargeable on account of the Stamps required, receive a *Certificate* from the *Collector*, stating the amount paid, and the number and value of the Stamps required; and on the production of that certificate, together with the necessary quantity of plain paper, parchment, or other material, the *Superintendent shall cause* the same *to be immediately stamped* at his Office, with the Stamps specified in the said document, and shall *transmit* the said papers, parchments, or other materials *to the General Treasury*, to be there impressed with the necessary *Counterstamps*. *Provided*, however, that *no* person shall be entitled to require the *Collector* to grant a *Certificate* in the manner above stated, *unless* the total value of the Stamps for which he may tender payment shall amount to the sum of *one hundred Rupees*. And the number of *pieces* of paper, vellum, or other material required to be Stamped, shall *not be less than twenty*.—Reg. XII, 1826, Sec. vii, cl. 1.

No paper, vellum, parchment or other material *shall, on* any account, *be received* by the *Superintendent of Stamps*, to be stamped on account of any individual, unless the same be accompanied with a *receipt in full*, under the signature of the *Collector* of Stamps, *for the entire amount of duty*, which may be required to be impressed thereon, or unless the same be sent him to be Stamped, by authority of the Board of Revenue, under the powers vested in that Board by this Regulation. The *receipt* of the Collector shall, in all cases *specify*, as well the aggregate *amount* paid, as the *number* and *description* of the Stamps required, and the exact number of sheets or *pieces* on which the same are to be impressed. All such *receipts* shall be disposed of by the Superintendent, in such manner as the Board of Revenue may prescribe.—Reg. XII, 1826, Sec. vii, cl. 2.

The *Superintendent of Stamps shall appoint one or more Officer or Officers* of his establishment, to *receive and compare with the Collector's receipt, all papers* or the like brought to be stamped as

above, and after the Stamps shall have been affixed, the *same Officer* shall again count the whole, and *sign his name at the back of each separate sheet,* or piece of paper, or other material; and he shall likewise *note on each the date* on which the said *paper is ready* for *re-delivery,* and further *make an entry* to that effect, with specification of the *quantity* of paper or the like, *impressed* with each description of Stamp, in a *book to be specially kept* by him for that purpose. When the paper or other article shall be prepared in the manner above described, it shall be made up into a *parcel,* to be *sealed* with the Superintendent's seal, and shall, in that state, be forthwith *transmitted* to the person who may have sent it to be stamped, *or* at the Superintendent's option, *notice* shall be sent *of it's being ready* for delivery, *when called for.*—Reg. XII, 1826, Sec. vii, cl. 3.

Whenever any person or persons shall desire to send paper or other *material* to the Stamp-Office, for the purpose of being stamped, and shall consequently pay the amount of duty in advance, in the manner above required, it shall be competent to the Collector of Stamps, in case the total amount so falling to be paid shall exceed the sum of *five hundred rupees* in any one payment, to allow to the party making such payment a *discount at the rate of four per cent.* upon the aggregate amount of duty leviable, *or such other rate* as may from time to time be appointed by the Governor-General in Council, by *Notification* in the Government *Gazette,* and the amount of such discount shall be *charged* and entered *on the Collector's accounts,* under the head of *disbursements.*—Reg. XII, 1826, Sec. vii, cl. 4.

It shall also be competent to the Board of Revenue to direct and cause Stamps to be furnished, in the manner and on the *terms prescribed in this Section,* to any *licensed vendors,* who may be willing to purchase the same; all such persons however, shall, in the *sale* of stamped paper so furnished to them, be subject to the same rules, as are prescribed for the sale of Stamps supplied to them on account of Government. *Provided,* however, that if such vendor shall *resign* or be *dismissed,* or his *license* be otherwise *cancelled,* then, and in that case, *he, his representative* or assign, *shall deliver* up to the Collector of Stamps, or to such person as he may appoint to receive *the stamped paper,* vellum, or the like, furnished to him under the provisions of this Section, or such portion as may not have been disposed of, and shall be *entitled to recover a sum* equivalent to *the price* which he may have *advanced* for the same, viz. the specified amount of the stamped paper or other material aforesaid, *with a deduction of the discount* that may have been allowed on it.—Reg. XII, 1826, Sec. vii, cl. 5.

If any *Superintendent or other*

officer shall fix or *impress*, or cause to be fixed or impressed, any *Stamp* to or upon any vellum, parchment, paper, or other material which shall be brought to the Stamp Office to be stamped or marked, *without a regular Certificate* from the Collector of the amount of duty having been paid, *or without special authority in writing* from the Board of Revenue, he shall, for every such offence, *forfeit the sum of one thousand rupees.* In like manner, *if any Collector, or other officer* appointed to receive the Stamp duty, shall grant *a Certificate* of the above description, *before the prescribed duty*, with a deduction of the authorised discount, shall have been actually paid, such officer shall *forfeit*, for every such offence, the sum of *one thousand rupees, besides being held responsible for the amount* of duty unrealized.—Reg. XII, 1826, Sec. viii, cl. 1.

Any native officer or other person, *causing* or procuring any *Stamp to be fixed* or impressed, *or* any *Certificate to be granted in the irregular manner aforesaid, or conniving* with the officer so fixing or impressing any Stamp, or so granting a Certificate, shall *forfeit for every such offence*, the sum of *one thousand rupees*, and shall *in addition* be held *answerable for the amount* of duty chargeable on the paper mentioned in the Certificate.—Reg. XII, 1826, Sec. viii, cl. 2.

The following rules are enacted for the Control and Superintendence of the Vendors and distributors authorised to be appointed by Sec. vi. Cl. 3.—Reg. XII, 1826, Sec. ix, cl. 1.

Every person who may be appointed to be *a vendor* or distributor of Stamps on the part of Government, shall attend the Board in person, and execute *a bond, with one or more responsible sureties*, for the faithful performance of the several duties prescribed for such vendors and distributors, in this or any future Regulations, with such penalty and after such form, as may be required by the said Board; and any *failure* in fulfilling the conditions of *such bond*, shall, *besides the penalty thereby provided*, subject the offender to *immediate dismission* from the said office of vendor or distributor, by the Board of Revenue.—Reg. XII, 1826, Sec. ix, cl. 2.

The following *rules* shall be observed *by all vendors* and distributors of Stamps, and the *bonds* executed by those persons on their appointment shall distinctly *bind* them *to* a strict observance of those *rules*, subject, in case of failure, to the several penalties hereinafter specified. *Provided*, however, that it shall also be competent to the Board of Revenue to require the vendors and distributors of Stamps to come under such *further engagements* as may appear necessary, and as may be legally required from them.—Reg. XII, 1826, Sec. ix, cl. 3.

All persons licensed to vend or distribute Stamps shall, *at*

all times, have their respective *licenses*, together with a copy of the *Schedule* annexed to this Regulation, duly authenticated by the official signature of the Collector of Stamps, *stuck up in a conspicuous place*, within the shop or building in which they may sell the Stamps, and shall further hang up on the outer door of such shop or other building, such *Notification* of their being licensed as the Board of Revenue may direct. Any neglect or *failure* to observe the above rule will subject the party offending to a *fine* of rupees *fifty*.—Reg. XII, 1826, Sec. ix, cl. 4.

All persons as aforesaid shall keep such *accounts of* the paper received and delivered by them, as the Board of Revenue may direct, and shall *furnish the Collector with such copies* or extracts of those accounts, and at such periods, as he may from time to time require. The said persons shall *regularly pay to* the Collector *all money or* moneys *received by them, on the sale of* Stamps intrusted to them, on the account of Government, *at such periods as* the said Officer *may appoint;* and shall likewise at all times when required, *permit* the *Collector*, or other person duly authorized by him, to *inspect the accounts* kept by them, *and to examine the store of Stamped paper*, or the like, which they may have in their possession.—Reg. XII, 1826, Sec. ix, cl. 5.

Any vendor or distributor *failing to produce* before the Collector of the Stamp duty, any of the *accounts* required by the Board of Revenue to be kept by him, after requisition made in writing by that Officer, and *failing to account for such omission*, to the satisfaction of the Board of Revenue, or other authority exercising the powers of that Board, shall *forfeit* the sum of *fifty Rupees*, and shall *further pay such daily fine for every day beyond the day fixed* in such requisition, for the production thereof, until the day when the accounts may be produced, *as* the *Board* of Revenue may *direct*. Any *vendor* or distributor *refusing* to permit the *Collector* of Stamps, or other person duly authorized by a writing under the seal and signature of that Officer, *to inspect* the said accounts, and examine the store of stamped paper, at the time in the custody of such vendor or distributor, *immediately upon demand*, shall *forfeit*, for every such refusal, the sum *of one hundred* Rupees, *and* shall further be subject to such *daily fine, until he complies* with the Collector's requisition, as the Board of Revenue may direct. —Reg. XII, 1826, Sec. ix, cl. 6.

No vendor or distributor of Stamps shall *deliver any Stamped paper* or the like, *without* having *previously received the full amount of the duty* denominated by the Stamp thereunto affixed; save and *except* in cases in which he may be otherwise *specially permitted* or directed *by the Collector, or Board* of

Revenue.—Reg. XII, 1826, Sec. ix, cl. 7.

Any vendor or distributor *who may*, without authority, permission, or direction, in writing from the Collector or Board of Revenue, *sell*, give out, or deliver Stamped paper, vellum, parchment, or the like, *without having received the entire amount of duty* denominated by the Stamp affixed thereto, shall *forfeit* for each and *every piece* of paper, or other material aforesaid so given out or delivered by him, the sum of *fifty Rupees, besides* being held *responsible for the amount* which should have been taken, in case of it's not being afterwards recovered. *Any person taking* or *receiving Stamped paper* from any such vendor, *without having paid the entire amount of* duty as aforesaid, shall *forfeit* the like sum of *fifty Rupees* for each and *every piece* of paper, &c. received or taken by him.—Reg. XII, 1826, Sec. ix, cl. 8.

All vendors and distributors of Stamps shall *carefully write on the back of each sheet*, or piece of Stamped paper, or the like, sold or delivered by them, the *date* of sale and delivery, and shall *attest each endorsement with his signature*, written in the manner commonly used by him.—Reg. XII, 1826, Sec. ix, cl. 9.

Any vendor or distributor giving out or delivering any Stamped paper, or the like, *without writing at the back of each sheet* or piece his *name* and the *date* of sale, and delivery as aforesaid, shall *forfeit* for each and *every piece* of paper so given out or delivered by him, the sum of *fifty Rupees; provided* the value of the paper sold do *not exceed the sum of sixteen Rupees;* but *if* the value of the paper, so sold without signature, *exceed the sum of sixteen Rupees*, then the vendor shall, for *every offence* so committed, forfeit a sum equal to *three times the value of the paper* so illegally sold by him.—Reg. XII, 1826, Sec. ix, cl. 10.

Any vendor or distributor *writing a false date* at the back of paper, vellum, or parchment, given out by him, shall *forfeit* the sum of *one hundred Rupees for every such offence*, or *if* the value of the Stamp sold *exceed sixteen Rupees*, then he shall forfeit *six times the value* of such Stamped paper, *besides* being in both cases *liable to the penalty of his bond*, in case of any breach of it's stipulations.—Reg. XII, 1826, Sec. ix, cl. 11.

All vendors and distributors of Stamps shall *comply with all applications* made to them *for the purchase of stamped paper* or the like, *with as little delay as possible.* Any vendor or distributor being applied to for Stamped paper or the like, and having in his possession the description of paper required, shall, in case of refusal or *wilful delay* to furnish the same to the person applying for it, and tendering the value in coin of the established currency, or in notes authorized by Government to be received in payment of the public Re-

venue, *forfeit* for *every such offence* the sum of *fifty Rupees.*—Reg. XII, 1826, Sec. ix, cl. 12.

No vendor or distributor of Stamps shall, on any plea or pretext whatsoever, take or demand *a higher price* for the Stamps delivered by him than the sum denoted by the Stamp or Stamps impressed on the paper, parchment, or the like, so delivered; *or any fee*, reward, or consideration for furnishing Stamps to persons applying for them; and any vendor or distributor who, upon furnishing Stamped paper, parchment, vellum, or any other article bearing a Stamp, to any individual for use, shall, as a consideration for furnishing the article, *or on any other pretext, take* or demand, as the equivalent of the article so furnished, a *higher price than* the amount that may be *denoted* by the impression of the Stamp or Stamps upon such paper, parchment, vellum, or the like, shall *forfeit for every such offence*, the sum of Rupees *one hundred.*—Reg. XII, 1826, Sec. ix, cl. 13.

It shall be competent to the *Collector* of Stamps to *demand*, for his personal satisfaction, such *collateral security*, in addition to the said bond, as he may deem necessary, to guard against loss from the misappropriation of the Stamps delivered to the vendors or distributors, or the embezzlement of the money realized by them; *and to require* the same *to be renewed, or other security* to be furnished, at any time that he may deem the same expedient, and *any one* unable or *refusing* to give such security when required, shall *not be appointed, or*, if already appointed, shall be liable to have his *license immediately withdrawn.*—Reg. XII, 1826, Sec. ix, cl. 14.

When the *license of any vendor* or distributor may be *withdrawn*, or when such vendor or distributor shall *resign the office, all Stamped paper*, or other article remaining in store, at the time of such removal or resignation, and all *accounts* regarding the sale and distribution of Stamped paper, or the like, at any time delivered to him, together with the *balance* of all money or moneys, which may have been realized by the sale and distribution thereof, up to the date of the said removal or resignation, and which may not have been already paid or accounted for to the Collector of Stamp duty, and likewise all *licenses, orders* or other documents or *writings*, which the said vendor or distributor may have *received* from that Officer, *shall be forthwith delivered over to the said Collector*, or *to such person or persons as he may appoint*, by a writing under his hand and seal, to take charge thereof, *receiving* for *such part of the Stamp paper*, or the like, as may have been *furnished* to him under the provisions of Sec. vii, the *amount actually paid by him, for* the same, as therein directed. In case any vendor or distributor, so remov-

ed or resigning, shall *refuse* or *fail* to make over the said *accounts* and *stores*, and the *balance* of the accounts in cash, or any part thereof, he shall *forfeit* for such failure or refusal a *sum equal to triple the amount and value of the Stamps and money* which may appear, from the accounts kept at the Collector's Office, to be in the possession of such vendor or distributor, *together with such daily fine, until* the papers, accounts, and *documents* required are *furnished*, as the Board or other authority aforesaid may direct.—Reg. XII, 1826, Sec. ix, cl. 15.

In case of the *death of* any *vendor* or distributor, the Collector of the Stamp Duty shall in like manner be empowered to demand, from the *heir, or person administering* to the estate of the deceased, or other person in charge of his effects, the remainder of any *store of stamped paper*, vellum, parchment, or the like, in the possession of such vendor or distributor at the time of his decease, together with *all accounts of* the sale or distribution thereof, as well as *all licenses, orders, or other documents* or writings as aforesaid, that may be forthcoming amongst the effects of the deceased; and in the event of any *refusal* on the part of the heir, administrator, or other person in charge of the effects of the deceased, to deliver the same, *or* of *refusal to allow search* to be made, whenever the Collector of the Stamp Duty may demand to make search for the said stores or accounts, such heir, or administrator, or other person in charge of the estate, shall *forfeit, for every such offence, the sum of fifty rupees*, and shall *further* be subject to such *daily fine, until* the *papers*, accounts, documents, and writings required, or *furnished*, as the Board of Revenue may direct.—Reg. XII, 1826, Sec. ix, cl. 16.

Provided also, that it shall be competent to the Collector, in the cases specified in the two preceding Clauses, as well as in all cases in which a *vendor* or distributor, may *fail* or delay *to account* for, and make good, the value of any Stamped paper, or the like, with which he may have been furnished for sale, on account of Government, *immediately to call upon the surety* or sureties of the said vendor or distributor, to *make good the deficiency* of money or paper, and on their *failure* to do so, to *proceed against* all, or any of them, for the recovery of the amount.—Reg. XII, 1826, Sec. ix, cl. 17.

All persons appointed by the Board of Revenue to be *vendors* or distributors of Stamps shall *verify* by affidavit, or affirmation, *their respective accounts*, whenever they may be required by the Board to do so; and if any vendor or distributor shall *refuse* or *neglect to verify his accounts*, within such reasonable time as he shall be called upon so to do by the said Board, or any Member thereof, he shall

for every offence *forfeit* the sum of *five hundred rupees.*—Reg. XII, 1826, Sec. ix, cl. 18.

Should it so happen that any parcel of papers, parchments, vellums, or the like, or any single sheet, or piece thereof that may have been duly Stamped, and obtained from a licensed vendor of the Stamps, direct, or from the Stamp Office, under the rule contained in Sec. vii, shall have been *destroyed by fire or other accident*, it shall be competent to the *Board of Revenue, or other authority* exercising the powers of that Board, upon its being *proved to the satisfaction of that authority* that the said *Stamps were* duly *received and subsequently* were *destroyed* by accident, after the manner asserted, to cause their *Secretary* to grant to the owner of the paper, or *other material destroyed*, a *Certificate* under his signature, and the seal of the Board, specifying the number and value of the Stamps so destroyed; and the said owner shall, upon carrying the said *Certificate* to the *Stamp Office*, together with such quantity of paper, vellum, or the like, as may be sufficient for the purpose, be *entitled, without any fee, charge, or duty* whatsoever, to *have* the *paper*, vellum, parchment, or the like, so carried to the Stamp Office, *stamped or marked for such duties as may be specified in the said Certificate;* and the Superintendent of Stamps is hereby enjoined to cause the same to be stamped and delivered in the same manner, *as if* the paper or other material *were accompanied with a Certificate* of the duty having been paid under the hand and seal of the Collector of the Stamp duty; *provided*, however, that a *separate account* shall be kept of all Stamps impressed or affixed by warrant of such Certificate.—Reg. XII, 1826, Sec. x, cl. 1.

In like manner, in case *any stamped paper*, parchment, vellum, or the like, after having been obtained in a regular manner, shall have become *soiled, spoiled, or unfit for use*, either by consequence of any *accident* happening to the same, or because of error in the drawing up, or copying of any instrument thereupon, which being discovered before such instrument may be finally signed and executed, shall render the *writing of no avail;* or in which, by reason of the *death* or *refusal* of the party or parties whose signature may be necessary to effect the transaction intended by such writing, it should be incomplete, and of no avail: or in which, by the *refusal of any Office*, or trust that may be granted by such instrument, it shall fail of the purpose intended; or in the case of *Promissory notes*, bills of exchange, *or the like*, if by *non-delivery* to the payee, or person acting on his behalf, or other cause, they shall never be brought to use;—*in all such cases*, it shall be competent to the Board of Revenue, or other authority exercising the powers

of that Board, *upon delivery being made of the stamped paper*, parchment, or vellum, or the like, so *soiled or spoiled*, to cause *Certificate* to be granted after the manner provided, in order that the owner of the article or articles so soiled or spoiled, may have the like, or *equivalent Stamps*, impressed upon other materials to be furnished by him for that purpose. But this rule shall *not extend to bills of exchange*, drawn in sets, of which *any one of the set may have been delivered* to the payee.—Reg. XII, 1826, Sec. x, cl. 2.

Provided, however, that *no such Certificate* shall be *granted* by authority of the Board of Revenue, *except* the *total value of Stamps* proved to have been destroyed or soiled by accident, or the *total value of every single Stamp*, in the case of the material having been spoiled by being written upon, shall amount to or *exceed the sum of ten Rupees*. *Provided likewise*, that no such *Certificate* shall be granted, except *after proof* exhibited that the accident or act, by reason of which the material may have become soiled, or spoiled, or destroyed, or useless, *occurred within* the period of *three calendar months of* the date on which *application* may be made for the Certificate. *No exception* shall be taken to any deed or instrument, on the ground that the Stamp which may have been used is *not of a proper denomination or rate* of duty, *provided* the same bear an *equal or greater value* in the whole than the Stamp which ought regularly to have been used.—Reg. XII, 1826, Sec. x, cl. 3.

If *any person* or persons shall, after the 1st May, 1827, *write* or engross, or cause to be written or engrossed, on any vellum, parchment, *paper, or other material* any of the matters or things on account of which such material would be *chargeable with Stamp duty*, under the rules of this or any other Regulation in force, *before* the said material shall have been duly *Stamped; or if any person* shall, after the said date, in any manner, *make, sign, or execute*, or accept, or *negotiate*, any deed or instrument chargeable with a Stamp duty, that may *not* have been executed *on paper*, or other material *duly Stamped*, such person or persons shall *forfeit*, for *every such offence*, a sum equivalent to *twenty times the value* of the Stamp paper which ought to have been used.—Reg. XII, 1826, Sec. xi, cl. 1.

Provided, however, that *if* any person or persons writing or engrossing, or causing to be written or engrossed, any matter or thing chargeable with a Stamp duty, upon *unstamped* paper, vellum, parchment, or the like, or any person or persons accepting or becoming possessed of any deed, instrument, or writing, so written on unstamped paper, or desirous of negotiating or benefiting thereby, shall *voluntarily carry the same to the Collector of Stamps*, and shall *pay to* that

Officer *the entire amount of duty* chargeable thereupon, together with the amount hereinafter provided, the Collector shall transmit the deed, instrument, or writing, to the Superintendent of the Stamp Office, for the purpose of being duly stamped; and the person aforesaid shall *not be liable to the penalty* declared in the preceding Section; that is to say, *if* the deed or instrument, originally executed on unstamped paper shall be brought to be stamped in the manner above mentioned, *at any time before the money conditioned or directed to be paid, or the act conditioned to be done shall be due, but not later than thirty days from the date of the execution of the deed,* instrument, or writing, or (in the case of deeds, instruments, or writings, *not conditioning* the payment of *money or* the performance of any *contract* within a specific period) at any time *within thirty days of the execution* of the deed, instrument, or writing, the party shall pay a sum equal to *five times* the value of the stamped paper which ought to have been used:—*if the deed* or instrument aforesaid *shall not be brought in the manner above mentioned,* within the period above specified, the party bringing it shall pay a sum equal to *ten times* the value of the stamped paper which ought to have been used. —Reg. XII, 1826, Sec. xi, cl. 2.

In case any deed or instrument shall have been executed on paper, parchment, vellum, or other material stamped for a rate or amount of *duty less than* what may be the rate or amount *chargeable* on account of the matter or thing that may have been engrossed or written thereupon, the *like penalties* shall attach as have been provided by the two preceding Clauses; that is to say, a sum equal to *twenty times the excess* of the proper Stamp above the value of that which may have been used shall be forfeited, *if* the error of the Stamp be discovered *otherwise than by* the *voluntary production of* the party or parties concerned; and a sum equal to *five or ten times* the said excess, *if* the party shall *voluntarily* bring such deed to have the proper Stamp affixed within the periods above stated respectively.—Reg. XII, 1826, Sec. xi, cl. 3.

Provided however, and it is hereby enacted, that in case any deed, or instrument, chargeable with a Stamp duty, shall have been executed on unstamped paper or other *unstamped* material, *or* on any material bearing a Stamp of an amount *not equal to the duty chargeable* upon such deed or instrument, then, if the person executing such deed, or any other *party interested,* shall *establish* to the satisfaction of the Board of Revenue, or other authority exercising the powers of that Board, that the *irregular execution* of the deed or instrument was owing to accident, or inadvertence, or to other *unavoidable cause,* it shall be competent to the above-men-

tioned *authority*, in case they should think proper to do so, *to remit part, or the whole of the penalties* above enacted, *and to cause a proper Stamp* to be affixed to such unstamped or improperly stamped instrument, on *the payment of the actual amount of the duty chargeable thereupon.*—Reg. XII, 1826, Sec. xi, cl. 4.

Provided further, that if the Stamp or Stamps affixed to any instrument, deed, or the like, be detected to be *forged or counterfeit*, the full penalty of *twenty times* the value of the Stamp on which the same should have been written, shall in all cases, be exacted, *in addition to the entire amount of duty chargeable for such deed*, before the same shall be impressed with the genuine Stamps of Government, *unless* the material on which the same may be executed shall bear the *endorsement* required by Sec. vii, or Sec. ix, as the case may be, and *unless* the party having executed, or being at the time in possession of such deed, shall be *able to prove* to the satisfaction of the Board of Revenue, or other authority exercising the powers of that Board, that the material stamped with a *forged Stamp* was purchased or obtained *on the date specified on the back of it, and from the individual whose name may be there signed.* If the required matter shall be duly endorsed on the back of any material stamped with a forged impression, and the *proof* adduced to the fact and date of purchase be deemed by the *Board* of Revenue to be *sufficient*, the regular and genuine Stamps shall be caused to be affixed, on payment of *one-half* the established *duty* chargeable on account of the matter of the instrument or deed in question, and *Certificate* to that effect shall be given by the Board of Revenue. —Reg. XII, 1826, Sec. xi, cl. 5.

Any person or persons *filing*, exhibiting, recording, *or causing* or procuring *to be filed*, exhibited, or recorded, for the purposes of proof, information, registry, or *for any purpose* or manner whatsoever, *in any Court of Justice or other public office*, any deed, instrument, or other writing required to be written on stamped paper, which may *not* be *written on the prescribed Stamped paper*, whether the said person or persons be himself the *party interested* in the case or matter, on account of which such deed, instrument or writing may be filed, exhibited, or recorded, or be the attorney *or agent* of such party, shall *forfeit* to Government a sum equal to *twenty times* the value of the stamped paper on which such deed, instrument, petition, pleading, or document ought to have been written.—Reg. XII, 1826, Sec. xii, cl. 1.

If any deed, instrument, or other writing, *required to be written on stamped paper*, and written on the prescribed Stamp paper, shall be filed, exhibited, or recorded *in any Court of Judicature, or in any public office, not having the signature of a licensed Stamp vendor*, or

other person duly authorized to sell or distribute Stamps, *endorsed* upon it, the person or persons filing, exhibiting, or recording the said deed, instrument, or writing, or causing or procuring it to be filed, exhibited, or recorded, shall *forfeit* a sum equal to *five times* the value of the said stamped paper.—Reg. XII, 1826, Sec. xii, cl. 2.

If any deed, instrument, petition, or document shall be filed, exhibited, or recorded as aforesaid, having *a forged or counterfeit Stamp* or signature, the person *filing*, exhibiting, or recording such deed, instrument, or document, *or causing* or procuring it to be filed, exhibited, or recorded, shall *forfeit* to Government a sum equal to *twenty times the value* of the Stamp which ought to have been used, *unless* the material on which the same may be executed shall bear the *endorsement required* by Section vii, or Section ix, as the case may be, and the party shall be *able to show* that the material stamped with a forged stamp *was purchased* or obtained *on the date specified on the back, and from the individual whose name may be there signed. If* the required signature and date shall be *duly endorsed* on the back of the material stamped, as aforesaid, with a forged impression, and the *proof* adduced to the fact and date of purchase be deemed by the Officer before, or in whose Office the writing may be filed, exhibited, or recorded to be *sufficient*, the said Officer shall *transmit the document to the Collector* of Stamps, *with* a communication of his *Judgment* in the case, and the *Collector* shall, *on payment by the party of one-half the established duty*, chargeable on account of the matter of the instrument, or deed in question, *forward* it to *the Superintendent* of Stamps, in order *that it may be duly stamped.*—Reg. XII, 1826, Sec. xii, cl. 3.

If any person shall *discover* that any deed, instrument, or document in his possession is written on paper, or other material bearing a *forged or counterfeit signature, or Stamp*, such paper or other material bearing the signature and date required by Sec. vii, or Sec. ix, as the case may be, *and shall state the circumstance to the Board* of *Revenue, or other authority* exercising the powers of that Board, the said person shall, *on proving* to the satisfaction of that Board, or other authority aforesaid, that the paper or other material in question was *purchased* or obtained on the *date specified on the back, and from the individual whose name may be there signed*, be entitled to have the *said paper* or material *duly stamped, without any fee or charge.*—Reg. XII, 1826, Sec. xiii.

No exception shall be taken to any deed, instrument, or other writing, on the ground that the Stamp which may have been used is *not of a proper denomination, or rate of*

duty, provided the Stamp or *Stamps used equal or exceed in* value the Stamp or *Stamps* which under the provisions of this Regulation, *ought to have been used.*—Reg. XII, 1826, Sec. xiv.

It shall and may be *lawful for* the Board of Revenue, the Superintendent of Stamps, and the Collector, or other *Officers vested* with the *charge* of Offices established for the sale and distribution *of Stamps,* to *summon witnesses,* to *administer oaths and affirmations,* and *to take affidavits* and *affirmations,* in all cases *where* he or they shall respectively *think it necessary* to administer, or take an oath or oaths, affirmation or affirmations, in any investigation or inquiry into any case relating to the Stamp Revenue, or any matter or thing connected therewith.—Reg. XII, 1826, Sec. xv.

SCHEDULE referred to in the body of the Regulation, containing the Duties chargeable on Instruments of Conveyance, Contract, Obligation, and Security for Money, and on Deeds in general.

	Rs.	A.
Agreement, or any Minute or Memorandum of an agreement, concerning any matter or thing of the *value of* 500 *rupees or upwards, not otherwise charged* in this Schedule, *nor expressly exempted* from all Stamp duty, whether the same be only evidence of a contract, or obligatory upon the party	8	0
EXEMPTIONS:		
Memorandum of agreement for the *hire of labour.*		
Ditto for the sale of goods *under the value of* 500 *rupees;* and all *agreements* carried on *by letter* and the like, between merchants and other persons, residing *forty miles* from each other.		
Assignments, if *not* of the nature specified under the heads of *Conveyances* and *Settlement, nor specially exempted,*	8	0
Bills of Exchange, drafts, promissory notes, hoondies, teeps, burats, or other order or *obligation, for the payment of money,* payable (if payable within the Provinces subordinate to this Presidency) *at sight, or at any stated period, not exceeding three months after date,* or ninety days after sight *(not being a* deed, instrument, or *writing, bearing the attestation of one or more witnesses),*		

	Rs.	A.
together with *all Bills of Exchange*, payable *out of the* said *Provinces*, at whatever date. for a sum of money *not exceeding* 25 Rs.	0	1
Above 25 rupees, *and not exceeding* 50 „	0	2
„ 50 „ .. 100 „	0	4
„ 100 „ .. 200 „	0	8
„ 200 „ .. 400 „	0	12
„ 400 „ .. 800 „	1	0
„ 800 „ .. 1,600 „	1	8
„ 1,600 „ .. 3,000 „	2	0
„ 3,000 „ .. 5,000 „	2	8
„ 5,000 „ .. 10,000 „	4	0
„ 10,000 „ .. 20,000 „	6	0
„ 20,000 „ .. 30,000 „	8	0
„ 30,000 „ .. 50,000 „	12	0
„ 50,000 „ .. 100,000 „	16	0
Above, 100,000 „	20	0
Promissory notes, written on paper of the above value, shall not *be re-issued* after payment.		
Promissory notes, intended to be re-issued, shall be charged, *as follows :*		
If for a sum of money *not exceeding* 25 Rs.	0	2
Above 25 rupees, and *not exceeding* 50 „	0	4
„ 50 „ .. 100 „	0	8
„ 100 „ .. 200 „	0	12
Above 200 rupees, and *not exceeding* 400 Rs.	1	0
„ 400 „ .. 800 „	1	8
„ 800 „ .. 1,600 „	2	0
„ 1,600 „ .. 3,000 „	2	8
„ 3,000 „ .. 5,000 „	4	0
„ 5,000 „ .. 10,000 „	6	0
„ 10,000 „ .. 20,000 „	8	0
„ 20,000 „ .. 30,000 „	12	0
„ 30,000 „ .. 50,000 „	16	0
„ 50,000 „ .. 100,000 „	20	0
Above, 100,000 „	32	0

NOTE.—The Governor-General in Council reserves to himself the power of admitting *any Bank or Company* to *compound for the Stamp* duty chargeable *on the Notes* issued by it.

Notice of such arrangements to be given in the Government *Gazette*.

				Rs.	R.
Foreign bills of Exchange, drawn in sets, for every bill of each set, where the sum made payable thereby, may *not exceed*			400 Rs.	0	8
More than	400	rupees, but *not*	*exceeding*		
„	800	„ ..		0	12
„	800	„ ..	1,600 „	1	0
„	1,600	„ ..	3,000 „	1	8
„	3,000	„ ..	5,000 „	2	0
„	5,000	„ ..	10,000 „	2	8
„	10,000	„ ..	20,000 „	4	0
„	20,000	„ ..	30,000 „	6	0
„	30,000	„ ..	50,000 „	8	0
Exceeding	50,000	„ ..	..	12	0

EXEMPTIONS:

Bills of Exchange drawn *and* promissory *Notes* issued *by Government Officers*, having authority to draw bills *upon the Government Treasuries*, or to issue Promissory Notes, or other acknowledgments, on account of Government.

All drafts or *orders for* the payment of any sum of *money on demand*, drawn upon any Bank, *banker, or agent*, residing *within twenty miles of the place where such draft or order shall be issued*, such *place* being *specified* on the *face of the* draft.

Bills of lading, of or for any goods to be *exported*, ...	1	0
Bills of Sale, ...		
An *absolute bill of sale*, ...	See "*Conveyances.*"	
Bill of sale, as a *security*, being the *principal or only deed* whereby the property is conveyed, ...	See "*Mortgage.*"	
Bill of sale, as a *security* being merely a *collateral* one, with some deed or instrument that has paid the *ad valorem* duty prescribed for conveyances, ...	8	0
Bonds, tumusooks, promissory notes, or other *obligations for* the payment of *money, payable* at a period *exceeding three months* after date, or ninety days after sight,		

If for any sum *not exceeding*	25 Rs.	Rs. 0 A. 2
Above 25 rupees, and *not exceeding*	50 „	0 4
„ 50 „ ..	100 „	0 8
„ 100 „ ..	200 „	1 0
„ 200 „ ..	300 „	2 0
„ 300 „ ..	500 „	4 0
„ 500 „ ..	1,000 „	6 0
„ 1,000 „ ..	2,000 „	10 0
„ 2,000 „ ..	3,000 „	16 0
„ 3,000 „ ..	5,000 „	20 0
„ 5,000 „ ..	10,000 „	32 0
„ 10,000 „ ..	20,000 „	40 0
„ 20,000 „ ..	30,000 „	50 0
„ 30,000 „ ..	50,000 „	64 0
„ 50,000 „ ..	75,000 „	70 0
„ 75,000 „ ..	100,000 „	80 0
„ 100,000 „ ..	150,000 „	100 0
„ 150,000 „ ..	200,000 „	120 0
Above, 200,000 „ ..	..	150 0
Bonds, concerning *respondentia* and *bottomry*,		*Ad valorem* as above.
Bonds, given as security for the *transfer of* Government *securities*, or for the payment of an *annuity*, for a fixed period, or for the delivery of, or *accounting* for any matter or thing *capable of being valued*, ...		Shall be charged at the rate of *the amount engaged to be paid* or accounted for, or *at the value* of the thing to be delivered or transferred.
Bonds, for *annuities* for an *indefinite* period, such as *life* annuities and *the like*, ...		Shall be charged at the rate of *ten times the yearly payment.*
Bonds, where the amount of the money to be secured or ultimately recovered shall be *uncertain and unlimited*, ...		Rs. A. 150 0
Where the amount is *limited to a certain sum*,		The same as on a *Bond* for such limited sum.
Bonds, taken as *collateral security, with some deed* or instrument *that has paid* the *ad valorem duty*, prescribed for Conveyances or Money Bonds, *or as security* for the performance of any other contract, covenant or agreement, *not* being for the *payment of money*, the transfer of property or the satisfaction of any pecuniary demand, ...		8 0

	Rs.	A.
Bonds of *indemnity*, ...	8	0
Bonds, for the due *execution of an office or work*, and *all other bonds not otherwise charged, or exempted from duty*, ...		

EXEMPTIONS:

Arbitration bonds.

Bonds, given to or by the *Officers of Government*, on account of any matter or thing of or belonging to the Government, in its Political or Territorial capacity.

Security bonds, which may be taken by, or by order of any Court, Collector, or other Judicial or Revenue authority;—*razeenamahs, sooluhnamahs and ruffanamahs*, filed in any suit pending in a Court of Justice, shall be charged as prescribed in the Regulations already in force, or hereafter to be enacted.

Charter Parties, or any agreement or contract for the charter of any *ship* or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the *freight or conveyance of any money, goods, or effects*, on board of such ship or vessel, ...	8	0

EXEMPTIONS:

Charter-parties of ships or vessels taken up by *Government* for the conveyance of *troops or Military stores, or for other Political purposes.*

Contracts or deeds, if *not otherwise charged, nor exempted from duty*, ...	8	0
Copartnership, deeds of, ...		
Composition deeds, or other instruments of composition between a debtor or debtors, and his, her, or their creditors, ...		

Conveyances, whether grant, disposition, assignment, transfer, renunciation, or of *any* other *kind* or description whatsoever, upon the sale of any lands, tenements, rents, annuities, or other property, *real or personal*, heritable or moveable, or of any *right, title, interest, or claims in*, to, out of, or upon any lands, houses, rents, annuities, or other *property;* that is to say, for or in respect of

	Rs.	A.
the *principal or only deed,* instrument, or writing, whereby the *property sold* shall be conveyed to or otherwise *vested in the purchaser* or purchasers, or to some other person, by his or their direction :———		
Where the purchase or *consideration money* therein expressed or denoted shall *not exceed* 50 Rs.	0	8
Above 50 rupees, and *not exceeding* 100 „	1	0
„ 100 „ .. 200 „	2	0
„ 200 „ .. 500 „	4	0
„ 500 „ .. 1,000 „	8	0
„ 1,000 „ .. 2,000 „	12	0
„ 2,000 „ .. 3 000 „	16	0
„ 3,000 „ .. 5,000 „	20	0
„ 5,000 „ .. 8,000 „	32	0
„ 8,000 „ .. 12,000 „	40	0
„ 12,000 „ .. 20,000 „	50	0
„ 20,000 „ .. 30,000 „	64	9
„ 30,000 „ .. 50,000 „	80	0
„ 50,000 „ .. 100,000 „	100	0
„ 100,000 „ .. 200,000 „	150	0
And for *every further lac* of rupees, beyond two lacs, ..	100	0

NOTE.—Where of several deeds, instruments, or writings, a *doubt* shall arise *which is the principal,* it shall be lawful for the *parties to determine for themselves* which shall be so deemed, and to engross the same on paper, parchment, vellum, or the like, stamped for the prescribed *ad valorem* duty; *provided,* however, that in all cases where there are more deeds than one, *all other deeds than the principal* shall be charged with a Stamp duty of *eight rupees,* and all such deeds shall *specify by their contents which* other is *the principal deed,* by which the conveyance has been effected,—certifying, that it is *executed* in the manner *and* on the material *stamped, as required.*

EXEMPTIONS:

All *grants, leases, sales, or the like,* wherein *Government,* in its *Political* or *Territorial* capacity, is a *party.*

NOTE.—This exemption shall *not extend* to sales made for the recovery of *arrears of*

Revenue or Rent, or in satisfaction of *decrees of Court*, in which cases, the purchaser shall be required to pay the prescribed duty, along with the purchase-money, and shall receive from the Officer conducting the sale, a *deed of sale* executed on paper impressed with a corresponding *Stamp*.

All *transfers* of subscriptions to any of the *Government loans*, or other *Government securities; also of Bank shares.*

Copies. Copy in any manner *authenticated*, or *declared to be a true copy*, or made *for* the purpose of being given in *evidence* as a true copy of any bond, deed, or instrument of agreement, contract, conveyance, or of any other deed or instrument whatsoever, chargeable with a Stamp duty

Where such *copy* shall be made *for the security* or use of any person *being a party* to, *or* taking any benefit or *interest*, immediately under such agreement, contract, bond, deed, or other instrument, ... — The same duty as for the *original instrument.*

Where such copy shall be made for the *security* or use of any person *not being a party* to *or* taking any benefit or, *interest*, immediately under such agreement, contract, bond, deed, or other instrument, ... — Rs. 8 As. 0

Likewise, any *copy* authenticated, or made as aforesaid, of any *Schedule, receipt, or other matter*, put or endorsed on, or *annexed* to any such agreement, contract, bond, deed, or other instrument aforesaid, ... — 8 0

NOTE.—Authenticated *copies of* any records, letters, accounts, statements, reports, or other *writings* furnished to individuals, *from* any of the *public Offices of Government in Calcutta*, shall be written on paper of the value, for each *and every sheet*, of .. .. — 0 8

EXEMPTIONS:

Copies made for the *private use* only of any *person having* the custody of the *original instruments*, or of his or her *attorney or solicitor.*

Copies of papers, which *public Officers* are directed by any general Regulation to make, require, or furnish, not specially declared chargeable with Stamp duty.	
Copies of proceedings and decrees of the *Sudder Dewanny Adawlut*, which shall be charged in the manner, and subject to the conditions prescribed in Regulation I, 1814, (X, 1829), and other subsequent Regulations.	
Deeds of any kind, *not otherwise particularized in this Schedule*, ...	Rs. 8 As. 0
Exchanges. Any deed whereby any *real property shall be conveyed* or surrendered, in *exchange for other property*:	
If no sum of money shall be paid, or agreed to be paid, for equality of exchange, ...	8 0
And *if any sum of money* be paid, or agreed to be paid, *for equality of exchange*, ...	The same *ad valorem* duty as for *a Conveyance* for such sum.
Engagements to cultivate, provide, or deliver *indigo plant*, or to produce, manufacture, provide, or deliver *any other article of commerce*, in *consideration of advance made*,	Shall be charged on the amount advanced at the rate of *Bonds* or other obligations for the payment of money, payable at a period *exceeding three months* after date.
Leases. Any lease made in perpetuity, or for a term of years, or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of *premium, fine*, or the like, *if without rent*, ...	The same duty as for a *Conveyance* or *Sale* for a sum of the amount of such consideration.
Any *lease* of lands, houses, or other real property, at *a yearly* rent, *without* any payment of any sum of money by way *of fine or premium*;	
Where the *yearly rent shall exceed twelve rupees*, but shall *not exceed twenty-four* rupees	Rs. 0 As. 8

		Rs.	As.
Exceeding 24 rupees, *but not exceeding* 50 Rs.		0	12
„ 50 „ .. 100 „		1	0
„ 100 „ .. 250 „		2	0
„ 250 „ .. 500 „		4	0
„ 500 „ .. 1,000 „		8	0
„ 1,000 „ .. 2,000 „		12	0
„ 2,000 „ .. 4,000 „		16	0
„ 4,000 „ .. 6,000 „		20	0
„ 6,000 „ .. 10,000 „		32	0
„ 10,000 „ .. 50,000 „		64	0
„ 50,000 „		80	0
Any *lease of* lands, houses, or other real property, stipulating for a *yearly rent*, and granted in consideration of a *fine or premium*, ..		Shall be charged with *both ad valorem* duties, above provided.	
The *counterpart of any lease* charged with a duty *exceeding eight rupees*, shall likewise be executed on paper, vellum, or parchment, bearing a Stamp of		4	0
EXEMPTIONS:			
All *leases, where* the annual *rent shall not exceed twelve rupees.*			
All leases or *pottahs* given by authority *of Government.* or of the Board of Revenue.			
Letters, or *powers of attorney*, or commission, or factory in the nature thereof.			
Powers to perform any *one special*, that is to say, particular *act*, or the acts connected with *one particular* suit, case, or *transaction*, or *sundry acts* to be done, *after a manner specified in the instrument*, ...		2	0
General, ...		4	0
EXEMPTIONS:			
Wukalutnamahs executed to regular *Pleaders of* the *Sudder Dewanny Adawlut or* any of the subordinate *Courts* of Judicature, authorizing them to prosecute or defend suits therein pending, or to present or make any miscellaneous petition, application, or motion to the Court, which are to be charged as prescribed in Regulation I, 1814. (X, 1829).			
Letters of License from *creditors to debtors*, ..		8	0
Mortgages. Any deed of mortgage or conditional sale, *with or without possession* given of any lands, estate, or *property, real or*		Shall be charged after the same manner and at the same	

personal, intended *as a security* for money due, or to be lent thereupon, also any deed or contract, accompanied *with a deposit of title-deeds* to any property, where the same may be made as a *security* for payment of money due or lent at the time, ...	rates as if in lieu of such deed of mortgage, or the like, a *Bond* had been taken for the sum due or lent at the time.
Deeds of mortgages or the like, given as security for the *transfer of Government securities*, or for the payment of an *annuity* for a fixed *period*, or the delivery at a future date of any matter or thing *capable of being valued*,	Shall be charged at the rate of *the total amount assured*, or of the *bonâ fide value.*
Deeds of mortgage given *for* the security of *annuities* for *an indefinite period*, such as life annuities, and the like, ...	Shall be charged at the rate of *ten times the annual payment.*
Where the total amount secured by such mortgage is *unlimited*, ...	Rs. As. 150 0
Where it may be *stipulated* that the amount secured by such mortgage *shall not exceed a certain sum*, ...	At the rate of such *limitations.*
NOTE —Where a *Bond* may have been *already taken* for the amount secured, or where from any other cause the *mortgage* shall act *merely* as *collateral security* to some other transaction, already charged with the *ad valorem* duty thereupon, the same being specified in the body of the deed or mortgage,	8 0
Likewise, in case of there being *more deeds than one* required to execute the mortgage in the manner desired by the parties, the *principal deed* only shall be charged with the *ad valorem* duty, and *all other* deeds connected with the same transaction, ..	
Acknowledgments or promissory notes granted to the treasurer or other officer of the *Bank of Bengal*, on account of the Bank, *or* to *any* private banker or *agent* for loans or advances made on the deposit of Government securities, bullion, plate, jewels, or other goods, and *payable within three months* after date, shall be charged as *promissory notes* If *payable* at a date *exceeding three months*, shall be charged as deeds of *mortgage*	
Partition —Any deed of partition of *real or personal property*, adjusted by mutual agreement amongst co-heirs, co-parceners, or the like, ...	8 0

And if any sum or sums of *money shall be paid* or agreed to be paid, for equality of partition, ...		*The principal deed* stipulating for such payment, shall be charged with the *ad valorem* duty prescribed for a *Conveyance or Sale* for an equal sum.
Policy of Assurance, or insurance, or other instrument, by whatever name the same shall be called, whereby an insurance shall be made *upon any life* or lives, *or upon an event depending upon any life or lives*		
Where the sum insured shall *not exceed*	5,000 Rs.	Rs. As. 4 0
Exceeding 5,000 rupees, *not exceeding*	10,000 „	8 0
„ 10,000 „ ..	20,000 „	12 0
„ 20,000 „ ..	50,000 „	16 0
Above 50,000 „ ..	..	20 0
Policy of Insurance, of any *ship*, vessel, sloop, lighter, boat, *or the like*, any goods or *property on board*, or upon the *freight* of any ship, vessel, sloop, lighter, boat, or the like, or upon *any other interest* relating thereto, or upon any voyage, where the premium shall not *exceed two per cent* on the sum insured, if the whole sum insured *shall not exceed* 1,000 *rupees*, ...		0 8
If the sum *insured exceeds* 1,000 *rupees*, then for every 1,000 *rupees*, and also for any fractional part of 1,000 rupees, whereof the same shall consist, ...		0 8
Where the *premium shall exceed two per cent* on the sum insured, if the whole sum *shall not exceed* 1,000 *rupees*, ...		1 0
If the sum *insured exceeds* 1,000 *rupees*, then for every 1,000 rupees, and also for any fractional part of 1,000 rupees, whereof the same shall consist, ...		1 0
Promissory Notes, payable to *the bearer on demand, at sight*, or at any stated period, *not exceeding three months* after date, or ninety days after sight, ...		See "*Bills of Exchange.*"
Promissory Notes, payable at a period *exceeding three months* after date, or ninety days after sight, ...		See "*Bonds.*"

Promissory Notes, for the payment of any sum by *instalments*, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be *definite and certain*, ...	The same duty as would be chargeable on *a Bond* for the whole amount.
All Receipts for *money* deposited in any *Bank*, or in the hands of any *banker or agent, if* the same shall stipulate for the payment of *interest* upon the money so deposited or in hand, shall be deemed and taken to be *Promissory Notes*.	
Receipts, or discharges given for or upon the payment of any sum of money *not exceeding* 32 *rupees*, ...	Rs. 0 As. 1
Exceeding 32 rupees, *not exceeding* 100 Rs.	0 2
„ 100 „ .. 200 „	0 4
„ 200 „ .. 500 „	0 8
„ 500 „ .. 1,000 „	0 12
„ 1,000 „ .. 2,000 „	1 0
„ 2,000 „ .. 3,000 „	1 8
„ 3,000 „ .. 5,000 „	2 0
„ 5,000 „ .. 8,000 „	2 8
„ 8,000 „	4 0
Also for a *Receipt in full of all demands*, ..	4 0
And *any* instrument, note, memorandum, or *writing*, given upon the payment of money, *whereby*, any money, debt, or *demand*, or the part thereof therein specified, shall be expressed or acknowledged to have been paid, settled, or otherwise *satisfied*, shall be deemed to be a *Receipt* for the amount so declared to be paid or satisfied.	
And if any such instrument or other writing shall contain a *general acknowledgment* of the settlement of debts, accounts, or other demands, without specifying the amount thereof, such instrument or writing shall be deemed, and *taken to be a receipt in full of all demands*, and *charged accordingly*.	
And *if payment* be made *by* delivery of a *bill* or bills of exchange, *draft or* drafts, promissory *notes*, or the like securities of money, the receipt or *acknowledgment given* thereupon, shall be *deemed to be a receipt within* the meaning of this *Schedule*.	

EXEMPTIONS:

Receipts for money paid or received *by any Officer of Government on account of Government.*

Receipts or discharges given for the purchase money of any *Government securities, or shares of the Bank of Bengal.*

Receipts and discharges given for *money deposited in any bank,* or with any *agent,* to *be accounted for on demand, provided no interest* be stipulated, as payable thereon.

If *interest be stipulated,* such receipt shall be chargeable as *Promissory Note.*

Receipts or discharges written upon promissory *notes, bills of* exchange, *drafts or orders* for the payment of money, *duly stamped.*

Letters by the post, acknowledging the arrival of any promissory notes, bills of exchange, or other *securities for money.*

Receipts or discharges written upon or contained in any *bond,* mortgage, or other security, or any conveyance, deed, *or other instrument duly stamped, acknowledging* the receipt of the *consideration-money* therein expressed, *or the receipt of any principal money,* interest, or annuity thereby secured.

Settlements. Any deed or instrument, whereby any sum or sums of money, or any Government securities, or other *property, real or personal,* shall be settled or agreed to be *settled upon for the benefit of any person* or persons, in any manner whatsoever, ..

Shall be charged with the *ad valorem* duty chargeable for a *Bond* for the amount or value settled or agreed to be settled, or in cases in which the value shall *be indeterminate,* at the rate of *one hundred rupees.*

Deeds of *gift and dower,* whether to take effect on the instant, or at a future period, determinate or indeterminate, shall be *charged as* deeds of *settlement.*

EXEMPTIONS:

Wills, testaments, and the like, together with deeds merely *declaratory of trust,* pursuant to any previous settlement, deed, or will.

GENERAL EXEMPTIONS:

Deeds, instruments, and *writings of any kind*, in which *Government or any* Board, Commission, Court, or *public Officer*, may, in a *public capacity*, be a party, shall not be chargeable with any Stamp duty.

SUCCESSION; *what law to be administered as to.*

The Zillah and City Courts are not to pass a decree in any suit concerning the succession or right of inheritance to a Zemindarry, Talook, land, house, or other real property, to which there are more claimants than one, who by the *Hindoo or Mahomedan law*, (respect being had to the religion of the claimants) would be entitled to a portion of the property; excepting the property be by the decree adjudged to all the claimants, in the *proportions* to which they may be *respectively entitled.*—Reg. III, 1793, Sec. xiii.

SUCCESSION; *and Domestic and Religious usages, &c.*

In suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the Judges are to form their decisions. In the respective cases, the Mahomedan and Hindoo *Law Officers* of the Court are to attend to expound the law.—Reg. IV, 1793, Sec. xv.

By the preceding Sec. it was evidently intended that the Law Officers attached to the several Civil Courts should expound the Law in the cases referred to in that Section, and that the Judges should be guided by such exposition in all common cases wherein they might have no reason to doubt the accuracy of it: but in particular cases wherein they might entertain such doubt, either from the objections of the parties, founded on other law opinions exhibited by them, or from a reference to the known books of Mahomedan or Hindoo Law, or from whatever cause, if the Judge or Judges trying the suit should consider the exposition given by their immediate Law Officer insufficient, it was not meant to preclude them from obtaining a further exposition from the Law Officers of the Superior Courts, by a reference of the case to them through the Judges of these Courts, as has been the occasional practice in some of the Courts, and is now declared to be at the discretion of the Courts, whenever they may deem such reference necessary for the purposes of Justice. It is at the same time to be observed, that the Courts are not authorized to refer any point of Law to individuals not

acting in a public capacity, and to whom, consequently, no responsibility attaches; although there is no objection to any of the Courts receiving law opinions, quoting or referring to authorities tendered to them by the parties, during the trial of the suit, in support of their claims, and if the Courts shall deem it proper so to do, referring them to their own Law Officers or those of the Superior Courts, to enable them to determine on their due weight and application to the case.—Reg. II, 1798, Sec. iv.

The rule contained in Sec. xv, Reg. IV, of 1793, shall be the rule of guidance in all suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions that may arise between persons professing the Hindoo and Mahomedan persuasions respectively.—Reg. VII, 1832, Sec. viii.

It is declared, however, that the above rules are intended and shall be held to apply to such persons only as shall be *bonâ fide professors of those religions, at the time of the application of the Law to the case*, and were designed for the protection of the rights of such persons;—*not for the deprivation of the rights of others*. Whenever, therefore, in any Civil suit, the parties to such suit may be of different persuasions; when one party shall be of the Hindoo, and the other of the Mahomedan persuasion, or where one or more of the parties to the suit shall not be either of the Mahomedan or Hindoo persuasions, the Laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases the decision shall be governed by the *principles* of *Justice, equity and good conscience*; it being clearly understood, however, that this provision shall *not* be considered as justifying the introduction of the *English, or any foreign law*, or the application to such cases of any rules not sanctioned by those principles.—Reg. VII, 1832, Sec. ix.

SUCCESSION; *Change of Religion not to affect.*

So much of any law or usage now in force within the territories subject to the Government of the East India Company, as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of any religion, or being deprived of caste, shall cease to be enforced as Law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.—Act XXI, 1850.

SUCCESSION; *Landed Estates; Joint Undivided Estate; Separate shares; Constructions; Wills; Local usage; Executors; Intestate; One or more heirs; Security; Manager from Collector; Allowances; Attach-*

ment; Court of Wards; Joint Undivided Estates; Heirs incompetent; Guardians.

If any Zemindar, Independent Talookdar, or other *actual proprietor* of land, shall die *without a will, or* without having declared by a writing, or verbally, to whom, and in what manner, his or her *landed property* is to devolve after his or her demise, and shall leave two or more heirs, who by the Mahomedan or Hindoo law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall *succeed to the shares to which they may be so entitled.*—Reg. XI, 1793, Sec. ii.

If any Zemindar, Independent Talookdar, or other *actual proprietor* of Land, shall die *without a will,* or without having declared by a writing, or verbally, to whom, and in what manner, his or her landed property is to devolve after his or her demise, and shall leave *two or more heirs,* who, by the Mahomedan or Hindoo law, (according as the parties may be of the former or latter persuasion,) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the foregoing rule, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a *joint undivided estate.* If one or more, or all of the sharers, shall be desirous of having *separate possession* of their respective shares, *a division* of the estate shall be made in the manner directed in the Regulations, and such sharer or sharers shall have the separate possession of such share or shares accordingly. If there shall be *three or more sharers,* and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their *shares united* accordingly.—Reg. XI, 1793, Sec. iii.

It is to be understood that if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the *proportion of the public jumma,* charged upon the whole estate, which is to be assessed upon such share or shares, *is to be adjusted* according to the rules prescribed in Section x, Regulation I, 1793. If the estate is held *khas, or* let in *farm,* the provisions contained in Section xi, Regulation I, 1793 regarding estates so circumstanced which may be divided, will be applicable to it.—Reg. XI, 1793, Sec. iv.

Nothing contained in this Regulation is to be construed to entitle any person to a share of an estate which may be now *held entire* by any individual, or that may devolve entire to any individual prior to the 1st July, 1794, in exclusion of the other heirs of the last proprietor, under the custom, for the future abolition of which, this Regulation is enacted.—Reg. XI, 1793, Sec. v.

Nothing contained in this

Regulation is to be construed to prohibit any actual proprietor of land *bequeathing* or transferring by will, or verbally, his or her *landed estate entire*, to his or her *eldest son*, or next heir, or other son or heir, *in exclusion of all other sons* or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner which such proprietor may think proper; *provided* that the bequest or transfer be *not repugnant to any Regulations* that have been or may be passed by the Governor-General in Council, nor contrary to the Hindoo or Mahomedan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before such witnesses, and in such manner, as those Laws and Regulations respectively do or may require. —Reg. XI, 1793, Sec. vi.

The above rules shall *not* be considered to *supersede* or affect any *established usage*, which may have obtained in the *Jungle Mehals of Midnapore, and other districts*, by which the succession to landed estates, the proprietor of which may die *intestate*, has hitherto been considered to devolve to a *single heir*, to the exclusion of the other heirs, of the deceased. In the Mehals in question, the *local custom* of the country shall be *continued* in full force, as heretofore, and the Courts of Justice be guided by it, in the decision of all claims which may come before them to the inheritance of landed property situated in those Mehals.—Reg. X, 1800, Sec. ii.

In all cases of a Hindoo, Mussulman, or other person subject to the Jurisdiction of the Zillah and City Courts, having at his death *left a will*, and appointed an Executor or Executors to carry the same into effect, and in which the *heir to the deceased may* not be *a disqualified* Landholder, subject to the Superintendence of the Court of Wards, *the Executors* so appointed are *to take charge of the Estate* of the deceased, and *proceed* in the Execution of their trust, according to the will of the deceased, and the *laws and usages* of the country, *without* any *application to the Judge of the Dewanny Adawlut*, or any other Officer of Government, for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the Executors for a breach of trust or otherwise; when they are to take cognizance of such complaint, in common with all others of a Civil nature, and proceed thereupon according to the Regulations, taking the opinion of their Law officers upon any legal exception to the Executors, as well as upon the provision to be made for the administration of the estate in the event of the appointed Executor being set aside, and generally upon *all points of*

Law that may occur: with respect to which the Judge is to be guided by the *Law of the parties*, as expounded by his Law Officers, subject to any modifications enacted in any Regulation or Act.—Reg. V, 1799, Sec. ii.

In case of a Hindoo, Mussulman, or other person, subject to the Jurisdiction of the Zillah or City Courts, *dying intestate*, but leaving *a son or other heir*, who by the laws of the country may be entitled to succeed to the *whole estate* of the deceased, *such heir, if of age and competent* to take the possession and management of the estate, or if *under age or incompetent*, and not under the Superintendence of the Court of Wards, his *guardian, or nearest of kin*, who by special appointment, or by the Law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased, as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, when they are to proceed thereupon according to the General Regulations.—Reg. V, 1799, Sec. iii.

If there *be more heirs than one to* the estate of a person *dying intestate*, and they can agree amongst themselves in the appointment of a *common Manager*, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir; but if the *right* of succession of the estate be *disputed between several claimants*, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient *security* from the party or parties in possession; for his or their compliance with the Judgment that may be passed in the suit; or *in default* of such security being given *within a reasonable period*, may give *possession*, until the suit may be determined, *to the other claimant*, or claimants *who* may be able to *give* such *security*; declaring, at the same time, that *such possession* is *not* in any degree to *affect* the *right* of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.—Reg. V, 1799, Sec. iv.

In the event of *none of the claimants* to the estate of a person dying intestate being *able to give the security* required by the preceding Sec. and in all cases wherein there may be *no person* authorized and willing *to take charge* of the landed estate of a person deceased, the Court within whose Jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of it's

being situated within two or more Jurisdictions) is authorized to proceed as directed in the following Sec., to obtain the appointment of *an administrator*, for the due care and management of such estate, until, in the former case, the *suit* depending between the several claimants shall have been *determined;* or, in the latter case, until the *legal heir* to the estate, or other person entitled to receive charge thereof as Executor, administrator, or otherwise, shall attend and *claim* the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just *account* of all receipts and disbursements during the period of his administration.—Reg. V, 1799, Sec. v. *(V. infrà.)*

Whenever the Zillah and City *Courts* may deem it just and proper, under the above provisions, to *provide for the administration* or *management* of landed property, the Court shall issue a *precept to the Collector* of Land Revenue of the district, wherein the estate may be situated, directing him to hold the estate in *attachment*, and to *appoint* a *person* for the due care and *management* of the estate, under good and adequate *security* for the faithful discharge of the trust, in a sum proportionate to the extent thereof; *provided*, however, that if any person holding an interest in the estate shall be *dissatisfied* with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the Manager at any time after his appointment, it shall be competent to such person to represent his *objections to the Board* of Revenue, and the Board will either confirm the Manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.—Reg. V, 1827, Sec. iii.

The *precept* of the Zillah or City Court above mentioned shall *state specifically* the *property* to be included *in the attachment*, and the attachment shall *not be withdrawn without a further precept* from the Court to that effect.—Reg. V, 1827, Sec. iv.

In all instances of an *administrator being appointed* under the foregoing provisions, the Collector appointing him is authorized to fix for him (subject to the approbation of the Board of Revenue, to whom a *report* is to be made in such instances) an adequate *personal allowance* to be paid out of the proceeds of the estate, and to be a *per centage* thereupon after deducting the expenses of management.—Reg. V, 1799, Sec. vi.

Nothing in this Regulation is to be understood to *limit* or alter the Jurisdiction of the *Court of Wards* in the appointment of Managers or Guardians

for the disqualified landholders, described in Regulation X, 1793, or in any case, wherein a special power may be vested in the Court of Wards by the above or any other Regulation. —Reg V, 1799, Sec VIII

Inconvenience to the public and injury to private rights having been experienced in certain cases, from *disputes* subsisting among the proprietors of *joint and undivided estates*, it is hereby enacted, that whenever sufficient cause shall be shown by the Revenue Authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zillah and City *Judges to issue a precept to the Collector* requiring him to *appoint a person*, duly qualified and under proper *security, to manage* the estate, that is, to collect the rents, and discharge the public Revenue, and provide for the cultivation and future improvement of the estate. The Court and the Collector are to proceed in the appointment of a Manager according to the rules provided in Secs. III and IV, Reg V 1827.—Reg V, 1812, Sec XXVI; Reg. V, 1827.

In all cases of *joint undivided estates*, when *one or more* of the proprietors shall *die*, leaving *heirs* who are *under age, lunatics, or idiots*, and *without* nominating *by will* a *guardian* or guardians to the heirs, it shall be the duty of the Judge, within whose jurisdiction such estate may be situated, (or the principal part of it, in the event of it's being situated in two or more jurisdictions), on the receipt of a *report* from the Collector, *or* from any *other person* or persons interested in the welfare of the family of the deceased, stating the grounds on which he or they may consider the next of kin as unfit to be intrusted with the care of the person or management of the estate of the heir, to investigate the nature of the *objections to the nearest of kin*, and if satisfied himself that they are *well founded*, the *Judge* shall *nominate* some *other person* of character and respectability to act *as guardian of the heir*, *reporting* the circumstance, in every instance, to the Court of Sudder Dewanny Adawlut. —Reg. I, 1800, Sec. I.

The *minority* of proprietors of *joint undivided* estates is declared to extend to the end of the *eighteenth* year.—Reg. XXVI, 1793, Sec. III.

In the *selection* of guardians to be appointed under this Regulation, the Judge is to attend particularly to their capacity, *character*, and responsibility; but the *guardianship* is in *no* instance to be *intrusted* to the *legal heir of the ward*, or other person interested in outliving him —Reg. I, 1800, Sec. II.

It is expected that some friends of the family of the deceased will *gratuitously* discharge the trust of *guardian; but* if, on any occasion, it may become necessary to make a *pecuniary compensation* to the

person appointed to act as *guardian*, the *amount* of such compensation is to be *fixed by the Judge*, on a due consideration of the circumstances of the case.—Reg. I, 1800, Sec. iii.

The *guardians*, appointed under this Regulation, are to be furnished with a *commission* under the Official seal and signature of the Judge; but previously to the delivery of it, they are to give *security* for their appearance during the continuance of their trust, and to execute the following *obligation*:

"I, A. B., having voluntarily taken upon myself the guardianship of C., proprietor of a ——— anna share of the estate of D., do hereby solemnly promise and *engage to execute the trust* committed to me zealously and *faithfully*, to the best of my judgment, and according to the Regulations which have been or may be prescribed for the guidance of Guardians by the Governor-General in Council. I will derive *no advantage* myself, directly, or indirectly from any moneys belonging to my Ward, which may come into my hands in the execution of my trust, *beyond the compensation* granted me for my superintendence, nor will I knowingly suffer any other person to derive therefrom any such undue advantage. I also promise and engage to render a true and *just account* of whatsoever may be received by me on account of my Ward above mentioned, when required to do so by any competent authority; and in the event of its being proved that I have been guilty of any *embezzlement*, or of any breach of trust injurious to his (or her) property, I hereby bind myself, my heirs and successors, to *make good treble* the amount of the embezzlement or injury so proved against me."—Reg. I, 1800, Sec. iv.

Guardians appointed under this Regulation are to have the care of the person, maintenance, and if a minor, the education of the ward. They are also to vote in the election of a Manager for the joint undivided estate, and to *exercise* the same *powers of* management of the estate of their Wards, as could be exercised by the *proprietors* themselves were they qualified for the direction of their affairs; and the *Manager is to account* to them for such portion of the profits arising from the estate as their Wards may be entitled to receive, on a fair distribution thereof amongst all the joint proprietors.—Reg. I, 1800, Sec. v; and Reg. XVII, 1805, Sec. v.

Estates under charge of a Manager elected as stated in the foregoing Sec. shall be held *answerable for the payment of the Revenue* assessed thereon; and *nothing* contained in this Regulation shall be considered as *exempting the lands from Sale*, for the realizatian of any balances which may at any time become due to Government.—Reg. I, 1800, Sec. vi.

If any person shall think himself aggrieved by any act

done by any of theZillah Judges, in the exercise of the authority vested in them by this Regulation, he is at liberty to state his *complaint by petition, either to the Judge in person, or to* the Court of *Sudder Dewanny Adawlut;* and whenever any such complaint shall be made, the Judge is to *certify* a copy of the petition, and of all his proceedings in the case to which it relates, to that Court, who are authorized to confirm or rescind his decision, as to them shall appear just and proper, and their judgment in all such cases is hereby declared to he final. All proceedings and papers which may be submitted to the Sudder Dewanny Adawlut under this Sec. are to be accompanied by true and faithful translations into the English language.—Reg. I, 1800, Sec. vii.

SUCCESSION; PERSONAL PROPERTY, *Intestate; British Subject.*

The Judges of the Zillah or City Courts, on receiving information that any person within their respective jurisdictions has died *intestate, leaving personal property,* and that there is *no claimant* to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an *advertisement* in the current languages of the country, requiring the *heir* of the deceased, *or* any *person entitled* to receive charge of his effects, *to attend* for this purpose. Such advertisement *to be published on the spot* where the property was found, and at the *Dewanny* Adawlut Cutcherry of the Zillah or City, and if ascertainable, at the *dwelling* place of the deceased; after which,should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator, or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it. Should *no claim* be preferred *within the twelve months* next ensuing, an *inventory* of the property and report of the circumstances of the case is to be transmitted to the Governor-General in Council for his orders.—Reg. V, 1799, Sec. vii.

It being enacted. in Statute XXXIX, Geo. III, Chapter 79, Sec. xxi, that whenever any *British subject* shall *die intestate,* and neither a creditor nor the next of kin shall apply for *letters of administration,* the *Registrar of the Supreme Court* shall administer to the estate of the deceased; and it shall be the duty of the Zillah and City Judges, whenever any *British European subject* shall die within the limits of their Jurisdictions, and *no will* shall be found among the effects of the deceased, to *report* the circumstance without delay to the Registrar of the Supreme Court of Judicature, retaining the property under their charge until Letters of administration shall have been obtained by

that Officer, or by some other person, from the Supreme Court of Judicature, when the property is to be delivered over to the person obtaining such *letters*; or in the event of a will being subsequently discovered, to the person who obtains *probate of the will*.*—Reg. XV, 1806, Sec. vi.

SUCCESSION; *Collection of debts; Probate and Certificate; Public Securities; Trustee; Certificate; Foreign Estates.*

No debtor of any deceased person shall be compelled in any Court of Law to pay his debt to any person claiming to be entitled to the effects of any deceased person, or any part thereof, except on the production of a *Certificate* to be obtained in manner hereinafter mentioned, *or* of a *probate, or letters* of administration, unless the Court shall be of opinion that payment of the debt is withheld from *fraudulent or vexatious* motives, and not from any reasonable doubt as to the party entitled.—Act XX, 1841, Sec. i.

The Zillah or District Court within the *Jurisdiction* of which any part of the property of the deceased may be found, shall have authority to grant a *Certificate* under this Act. The applicant in his petition shall set forth his *title*. The *Judge* shall issue *notice* of application, inviting *claimants*, and fixing *a day* for hearing the petition; and upon the appointed day, or as soon after as may be convenient, shall *determine the right* to the certificate, and grant the same accordingly.—Act XX, 1841, Sec. ii.

The *Certificate* of the district or Zillah Judge shall be conclusive of the representative title against all debtors to the deceased, and shall afford full *indemnity to all debtors* paying their debts to the person in whose favour the certificate has been granted.—Act XX, 1841, Sec. iii.

The district or Zillah Judge may take such *security* as he shall think necessary, from any person to whom he shall grant a certificate for rendering an *account of debts* received by him, and *for indemnity* of persons who may be entitled to the whole, or any part of the monies received by virtue of such certificate, whose *right to recover* the same by regular suit against the holder of the certificate is *not affected* by this Act.—Act XX, 1841, Sec. iv.

The granting of such *Certificate* may be *suspended* by *an Appeal* to the Court of *Sudder* Dewanny Adawlut, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District or Zillah Judge, *grant*

* The Act 55 Geo. III, cap. 84, sec. ii, provides that administration shall be granted to the *Attorneys of absent persons* entitled to administration *preferably* to the *Registrar* of the Supreme Court.

a fresh Certificate, in supersession of the certificate granted by the District or Zillah Judge, and such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted without *notice* that the same has been superseded, but shall entitle the person named therein to *receive* all *monies* that may have been *recovered* under the first Certificate, from the person to whom the same may have been granted.—Act XX, 1841, Sec v

Every *certificate* shall give *authority* to the person to whom the same is granted, *throughout the Presidency* within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.—Act XX, 1841, Sec vi

A person certified as aforesaid, may be empowered to receive *interest* on Government Notes and Dividends, or on shares of any Bank, or parts thereof, and to *negotiate* such securities He may also be empowered to receive a share of such *interest* of dividends, or to negotiate a share of such securities But these powers shall only arise by *express words* in the certificate.—Act XX, 1841, Sec vii

Where a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the *later* certificate, in *ignorance of the* grant of the *previous Certificate*, shall be *held good* against claims under such *previous Certificate*.—Act XX, 1841, Sec viii

With regard to the property of deceased *Hindoos*, *Mahomedans*, and other persons *not* usually designated by the term "*British subjects*" *no Certificate* in respect of any such property shall be valid, *if* made *after a probate or letters of administration* granted in respect of the same, *provided assets* belonging to the deceased were, at the time of his death, *within* the local *Jurisdiction* of the Court granting the probate or letters of administration.—Act XX, 1841, Sec ix

Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all *payments* made to the person holding the certificate, *in ignorance of the previous* granting of the *probate or letters* of administration, shall be held *good* against claims under the probate or letters of administration so previously granted.—Act XX, 1841, Sec x.

No probate or letters of administration shall be valid for the purpose of the recovery of debts, or for the security of debtors, *after a certificate* granted in respect of the same property, for which such probate or letters of administration shall have been granted, *pro-*

vided assets belonging to the deceased were at the time of his death *within the Jurisdiction* of the Court granting such certificate.—Act XX, 1841, Sec. xi.

Where probate or letters of administration may have been granted, in cases in which such probate or letters of administration *would be valid but for* the *previous* grant of a *certificate*, all *payments* made *in ignorance* of the previous grant of the certificate shall be held *good* against claims under such previous certificate.—Act XX, 1841, Sec. xii

Curators appointed under the Act XIX, 1841, shall not exercise any powers which, but for that Act, would lawfully belong to such persons obtaining certificates, executors or administrators, where a certificate, probate or letters of administration, have been actually obtained; but *all* persons *who may have paid* debts or rents *to a Curator*, authorized by a Judge to receive the same, shall be *indemnified*, and the *Curator* shall be *responsible* for the payment of the same to the person who has obtained a certificate, the executor or administrator, as the case may be.—Act XX, 1841, Sec. xiii.

All probates and letters of administration, granted by any of *Her Majesty's Courts*, in cases in which any *assets* belonging to deceased persons were, at the time of their deaths, *within* the local *Jurisdiction* of the Court granting the probate or letters of administration, shall have the effect of probate and letters of administration, granted in respect of the property of British subjects, *but* for the purpose of the *recovery of debts only*, and the security of debtors paying the same; *except* so far as is in this Act provided.—Act XX, 1841, Sec. xiv.

Nothing in this Act contained shall be held to *extend* to the property of any person usually designated as a "*British subject*,"—Act XX, 1841, Sec. xv.

In the case of *disputes* among persons *claiming* to be jointly entitled to be proprietors of any *public securities* of the East India Company, as the representatives of any deceased person, the District or Zillah Judge, whenever sufficient cause shall be shown to him, and on the request of any such claimant, may grant a *Certificate* of administration of the *personal estate* of the deceased, so far as concerns the said securities, according to Act XX, of 1841, to such persons, as shall be from time to time appointed by the Governor of Bengal, to act as *trustee* under this Act; and shall *specify* in such certificate the several *persons* appearing to him to be such proprietors, and their several shares; and the said *trustee*, by virtue of such certificate, shall be entitled to *receive and give discharges for the interest*, accruing due on such securities; and shall *account for and pay* the sum to the several persons specified in the Certificate to be there-

unto entitled, according to the shares therein set forth: and shall be *empowered* to act in all other respects concerning the said securities *as agent* for such persons; and shall be entitled to the same rate of *commission* upon all such transactions as is allowed to the Government Agent for the time being on the like transactions, as Agent of the public creditors of the East India Company, by any Regulations from time to time made by the Governor-General of India in Council; *Provided*, nevertheless, that the *right* of any other person *to recover* the whole or any part of the monies so paid, *by regular suit*, against all or any of the persons to whom the same have been paid, shall *not* be *affected* by this Act.—Act X, 1851, Sec. i.

If any such *disputes*, among persons claiming to be proprietors of public securities of the East India Company, are *not ended within two years from* the date of the *Certificate* of administration granted by any District or Zillah Judge, the said *trustee may apportion* the principal sum of the said securities, rateably among the parties appearing from the aforesaid *Certificate* to be proprietors thereof, and may apply for and receive *new securities* from the proper Officer appointed to issue the same, in the respective names of the several parties certified to be entitled thereto; *provided* that such new securities shall be issued only according to the rules in use for the regulation and issue of such public securities; and the *receipt of the said trustee* for such new securities, by endorsement on the whole securities or otherwise, shall be a *legal discharge* to the East India Company against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued: *Provided* always, that if the *amount* of any securities in dispute, or any part thereof, shall *not be sufficient* to admit of their rateable division according to the rules applicable to the issue of such securities, the said *trustees may sell and dispose* of the disputed securities, or such part as shall be necessary under this provision, *and apportion the proceeds* thereof among the parties entitled to receive the same.—Act X, 1851, Sec. ii.

Every such *certificate* granted to the *trustee* appointed under this Act, shall be taken to *supersede* and *annul* any *previous certificate* given of a half or any other share in the said *personal estate*, so far as concerns the said securities.—Act X, 1851, Sec. iii.

As regards residents in *Foreign Estates*, out of the Jurisdiction of British Courts of Justice, a certificate of administration to personal estates granted by the *British representative* accredited to that state, or as regards the residents in any District to which Act XX, of 1841, does not extend, such Certificate granted by the

British Officer in that District holding the *highest Executive authority*, shall have the *same effect* as regards public securities of the East India Company, as a certificate granted to a native subject of Her Majesty under the provisions of Act XX, of 1841, as amended by this Act.—Act X, 1851, Sec. iv.

This Act (X, 1851,) shall be construed with and as part of Act XX, 1841, Sections 1. to 15,—Act X, 1851, Sec. v.

Whereas doubts exist as to the *limits* within which Certificates of administration to *personal estates* granted in pursuance of Sec iv, Act X, of 1851, by the *British Representative* accredited to a *Foreign State*, or by the British officer holding the *highest executive* authority in a district to which Act XX, of 1841 does not extend, are operative, and it is expedient to remove such doubts, and also to amend the provisions of the said Acts; It is enacted, as follows:—Act VIII, 1854. Preamble.

Every such *Certificate of* administration as aforesaid, which shall hereafter be granted, shall, as regards the *public securities* of the East India Company, give authority to the person to whom the same shall be granted *throughout the territories in the possession and under the Government of the East India Company*, and have the same effect throughout the said territories, as a Certificate granted under the provisions of Act XX, of 1841, *as* amended by Act X, of 1851, has *within the Presidency* within which the same is granted.—Act VIII, 1854, Sec. i.

No certificate, granted under the provisions of Act XX, of 1841, as amended by Act X, of 1851, or under the provisions of Act X, of 1851, shall *empower* the person certified *to negotiate* any Government Note or share of a Bank or any Share of such security, or to receive any *interest* or *dividend* due thereon, or any share of such interest or dividend, *unless* the Government Note or Bank Share shall be *specified* in such certificate.—Act VIII, 1854, Sec. ii.

Any Judge, British representative or other British Officer, authorized to grant a *certificate*, may, from time to time *extend* the same *to* any *Government Note or Bank share not originally specified* therein, and every such *extension* shall have the *same effect* as if the Government Note or Bank Share to which the certificate shall be extended had been originally specified therein.—Act VIII, 1854, Sec. iii.

Upon the *extension* of a *certificate, security* may be required, in the same manner as upon the original grant of a certificate.—Act VIII, 1854, Sec. iv.

SUCCESSION; *Landed Estates in Cuttack; Tributary Mehals; Superintendent; Procedure; and Appeal to the Sudder Dewanny Adawlut.*

All claims to the right of inheritance or succession to any of the under-mentioned *Tributa-*

ry Estates are to be heard, tried, and determined, in the first instance by the *Superintendent* of the tributary Mehals in Zillah Cuttack.

Killah	..	Neelgerry
Ditto	..	Bankey
Ditto	..	Joonnoo, alias Duspullah.
Ditto	..	Nursingpore
Ditto	..	Angole
Ditto	..	Talcher
Ditto	..	Augurh
Ditto	..	Keonjur
Ditto	..	Kindeaparah
Ditto	..	Nyahgurh
Ditto	..	Rampore
Ditto	..	Hindole
Ditto	..	Teegereah
Ditto	..	Burmubah.
Ditto	..	Dekenal

The territory of Mohurbunge.—Reg. XI, 1816, Sec. ii.

TheSuperintendent, in deciding cases of the above nature, shall be generally guided by the *established laws and usages of the respective Tributary Estates. Provided* however, that the estates above enumerated shall *in no case* be considered liable *to be divided* according to the *Hindoo Law*, but shall *descend entire*, to the person having the most substantial claim, according to local and family usage.—Reg. XI, 1816, Sec. iii.

The Superintendent is *prohibited* from taking *cognizance of any suit*, the *cause of action* in which shall have arisen *antecedent* to the 14th day of October, 1803, the date on which the fort and town of Cuttack were surrendered to the British arms.—Reg. XI, 1816, Sec. iv.

The established *pleaders* of the Zillah Court shall attend the *Superintendent's Court*, to be held in the Court House of the Zillah *Adawlut;* and they shall be guided by the *same rules* as pleaders in the Zillah Courts; subject of course, to the prescribed rules in the cases of *paupers*.—Reg. XI, 1816, Sec. v.

The *Hindoo Law Officer* of the Zillah Court is to *expound* the Hindoo Law, in all cases wherein it may be requisite for the due determination of causes pending before the Superintendent.—Reg. XI, 1816, Sec. vi.

All *processes*, issued in suits instituted under this Regulation, shall bear the official *seal and signature of the Superintendent;* and shall be *executed* by the Officers on his establishment, in *like* manner as all similar processes, issued by the Judge of the *Zillah Court*, are executed; and any disobedience and *resistance* to his process shall be liable to a *fine* to Government, to be fixed by the Superintendent, subject to the *confirmation* of the Court of *Sudder* Dewanny Adawlut; or, if the offender be a Landholder or Sudder Farmer, and the case appear to call for it, by a *confiscation* of his estate or farm, commutable to a fine by the Sudder Dewanny Adawlut, or Governor-General in Council.—Reg. XI, 1816, Sec. vii.

In the trial of all suits institu-

ted under this Regulation, the Superintendent shall be guided by the *general rules* prescribed for the trial *of Civil causes* before the Judges of the Zillah Courts, subject to the *special provisions* contained in this Regulation, *or* in points *not* specially *provided for*, to any *qualification* of the general rules which may be found *expedient*, and may be *sanctioned by* the Court of *Sudder* Dewanny Adawlut.—Reg. XI, 1816, Sec. viii.

It shall *not* be *requisite* to use *stamped paper* for the plaints, pleadings, decrees, or any papers relative to suits instituted under this Regulation; nor shall any durkhaust on stamped paper be required for the admission of exhibits, or the issue of summonses to witnesses in such suits, when tried in *the first instance, or in appeal*.—Reg. XI, 1816, Sec. ix.

In all suits decided, and orders passed by the Superintendent, under this Regulation, an *appeal* from his decisions and orders shall *lie* to the Court of *Sudder Dewanny Adawlut, provided* that the petition of appeal be preferred *within three months* after the decree or order appealed from shall have been passed.—Reg. XI, 1816, Sec. xi.

The *petition of appeal* shall be presented to the Superintendent, and shall contain a *full and explicit statement of* the appellant's *objections* to the decree or order from which he is desirous to appeal. The appellant, if not admittted as a pauper, shall at the same time tender good *security* for the payment of any *costs* which may be adjudged on the determination of the appeal by the Sudder Dewanny Adawlut, *or* if unable to give such security shall *make oath* or subscribe a solemn declaration to his *inability, or adduce two* creditable *persons to prove* the same.—Reg. XI, 1816, Sec. xii.

On the receipt of the petition of appeal, with the prescribed security, or proof of inability required in failure thereof, the Superintendent shall cause a *copy* to be made *of the decree* or order from which the appeal may be required, and *within fifteen days* shall *certify, and transmit* the same, with the petition of appeal, *to* the Court of *Sudder* Dewanny Adawlut.—Reg. XI, 1816, Sec. xiii.

When the Court of *Sudder* Dewanny Adawlut may *admit* the *appeal*, they will cause a *precept* to be issued, under the seal of the Court, and the signature of the Register, addressed *to the Superintendent*, requiring him within such period as may be limited by the precept, to furnish a *complete record* of all papers received, and proceedings held, in the case: and also to *call upon* the *respondent* or respondents for his or their answer, or *to appear* in person or by vakeel, within a certain time before the Sudder Dewanny Adawlut, *and* deliver his or their *answer* to that Court.—Reg. XI, 1816, Sec. xiv, Cl. 1.

The Superintendent, on receipt of the *precept, shall comply* with the exigency thereof, as required, or in the event of his *not being able* to carry the same into *complete* execution within the prescribed period, shall *certify* the same to the Court of Sudder Dewanny Adawlut, *with notice of* the period within which a *further return* will be made.—Reg. XI, 1816, Sec. xiv, Cl. 2.

It shall be *optional with appellants and respondents, in appeals to the Sudder* Dewanny Adawlut, under this Regulation, to *attend in person or by vakeel,* for the prosecution or defence of their appeals before that Court; *or to deliver their proceedings to the Superintendent of* the Tributary Mehals; who, in the latter case, shall forward them, as soon as received, to the Sudder Dewanny Adawlut, and communicate to the parties any orders which may be issued by that Court.—Reg. XI, 1816, Sec. xv.

In cases wherein it may appear to the Court of Sudder Dewanny Adawlut that the cause in appeal has *not been sufficiently investigated,* and consequently that *further evidence* is required for the just determination of it, that Court is empowered to *refer the cause back,* for further trial and judgment to the Superintendent, or to *direct that further evidence be taken,* and transmitted to the Court.—Reg. XI, 1816, Sec xvi.

The *provisions* contained *in Sec. iii,* by which the decisions passed by the Superintendent are to be governed, shall be considered equally *applicable* to the decisions of the *Sudder Dewanny Adawlut,* in all the appeals under this Regulation — Reg. XI, 1816, Sec. xvii.

The *principles* of the *several provisions* contained in Secs iv, v, vi, viii, ix, shall also be considered *applicable to all appeals* from decisions or orders of the Superintendent of the Tributary Mehals in Zillah Cuttack, which may come *before* the Court of *Sudder* Dewanny Adawlut.—Reg. XI, 1816, Sec. xviii.

In cases of *appeal to the Sudder Dewanny Adawlut* from any decree or order of the Superintendent, involving a *transfer of property,* or any change in the actual possession of property, the decree or order appealed from, shall *not be carried into execution, during the appeal* to that Court, *provided* the appellant shall give good and sufficient *security* for the performance of the final decision which may be passed upon the appeal; and in *no* instance shall the Superintendent cause to be carried into *execution* any such decree or order passed by him, *until* the *period* allowed *for* the *appeal* may have *elapsed.*—Reg XI, 1816, Sec. xix, Cl 1.

In the event of the appellant's *not* giving *security* for staying the *execution* of the decree appealed from, and of it's being consequently put into execution whilst an appeal is pending, good and sufficient

security shall be taken from the *respondent* for the performance of the final decision which may be passed upon the appeal.—Reg. XI, 1816, Sec. xix, Cl. 2.

In case *neither party* shall be able to *give* the requisite *security*, the estate in dispute shall be *attached* by order of the Superintendent, until the security required shall be received, or until the final determination be passed by the Sudder Dewanny Adawlut upon the case.—Reg. XI, 1816, Sec. xix, Cl. 3.

No decree or order, whether of the Superintendent of the Tributary Mehauls, or of the Sudder Dewanny Adawlut, *involving a transfer* of the property or an actual change in the possession *of the Estates* enumerated in Sec. ii, shall be carried into execution *without* a previous *communication* being made by the Sudder Dewanny Adawlut *to Government*; in order that sufficient time may be afforded for the adoption of any precautionary measures which may be eventually judged requisite to support and enforce the execution of the decree or order, without hazard to the public tranquility.—Reg. XI, 1816, Sec, xix, Cl. 4.

The Judgments of the Sudder Dewanny Adawlut shall be final and conclusive in all appeals heard and determined by the Court under this Regulation, *within* the limitation of appeals to the Queen in Council, prescribed, viz. 1000*l.* or *Rupees* 10,000.—Reg. XI, 1816, Sec. xx, Cl. 1; and Order of her Majesty in Council, 10th April, 1838.

If the amount or value adjudged shall, exclusive of costs of suit, *exceed* the sum of 1,000*l.*, or *rupees* 10,000, a further *appeal will be open* to Her Majesty in Council; and shall be received by the Sudder Dewanny Adawlut, under the provisions which have been enacted for receiving such appeals in Regulation XVI, 1797.—Reg. XI, 1816, Sec. xx, Cl. 2; and Order of Her Majesty in Council, 10th April, 1838.

SUCCESSION; *Wrongful possession; Application; and Procedure of Court; Curator; Her Majesty's Courts.*

Whenever a *person dies* leaving property, moveable or immoveable, it shall be *lawful for any person claiming a right* by succession thereto, or to any portion thereof, to *make application* to the Judge of the Court of the district where any part of the property is found or situate, for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.—Act XIX, 1841, Sec. i.

It shall be lawful for any *agent, relative, or near friend*, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to *make the like application* for

relief.—Act XIX, 1841, Sec. ii.

The Judge to whom such application shall be made shall, in the first place, inquire by the *solemn declaration* of the complainant, and by witnesses and documents, at his discretion, whether there be strong reasons for believing that the party in possession, or taking forcible means for seizing possession, has no *lawful title*, and that the applicant, or the person on whose behalf he applies, is really entitled, and is likely to be materially prejudiced, if left to the ordinary remedy of a regular suit, and that the application is made *bonâ fide*.—Act XIX, 1841, Sec. iii.

In case the Judge shall be satisfied of the existence of such strong ground of belief, but not otherwise, he shall *cite the party* complained of, and give *notice* of vacant or disturbed possession, by publication, and after the expiration of a reasonable time shall *determine summarily the right to possession*, (subject to regular suit as hereinafter mentioned) and shall deliver possession accordingly; *provided* always, that the *Judge* shall have the power to *appoint* an *Officer* who shall take *an inventory of effects*, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for citing the party complained of or not.—Act XIX, 1841, Sec. iv.

In case it shall further appear, upon such application and examination as aforesaid, that danger is to be apprehended of the *misappropriation or waste* of the property before the summary suit can be determined, and that the *delay* in obtaining *security* from the party in possession, or the insufficiency thereof, is likely to expose the party out of possession to considerable *risk*, *provided* he be the lawful owner, it shall be lawful for the Judge to appoint one or more *Curators*, with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit, and the confirmation of delivery of possession in consequence thereof. *Provided* always, that in the case of land, the Judge may delegate to the *Collector* or to his Officer the powers of a *Curator*, and also that every *appointment* of a Curator in respect of any property be duly *published*.—Act XIX, 1841, Sec. v.

The Judge shall have power to *authorize such Curator*, either to *take possession* of the property generally, or until *security* be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. *Provided* always, that it shall be entirely *discretionary* with the Judge,

whether he shall allow the party in possession *to continue* in such *possession* on giving security, or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds, or other effects.—Act XIX, 1841, Sec. vi

The Judge shall exact from the *Curator security* for the faithful discharge of his *trust*, and for rendering satisfactory *accounts* of the same, *as hereinafter* mentioned, and may authorize him to receive out of the property such *remuneration* as shall appear reasonable, but in no case exceeding *five per centum* on the personal property, and on the annual profits of the real property. All *surplus monies* realized by the Curator shall be *paid into Court, and invested in public securities* for the benefit of the persons entitled thereto, upon adjudication of the summary suit. *Provided* always, that although security shall be required from the Curator with all reasonable despatch, and, where it is practicable, shall be taken generally to *answer all cases* for which the person may be afterwards appointed Curator, yet *no delay* in the taking of security shall prevent the Judge from immediately *investing the Curator* with the powers of his Office.—Act XIX, 1841, Sec. vii.

Where the Estate of the deceased person shall consist, wholly or in part, of *land paying Revenue* to Government, in all matters regarding the propriety of *citing* the party in possession, of appointing a *Curator*, and of nominating individuals to that appointment, the Judge shall demand a *report* from the Collector, and the *Collector* is hereby required to furnish the same. In cases of *urgency*, the Judge may proceed, in the first instance, *without* such report, and he shall not be obliged to act in conformity thereto; *but* in case of his acting otherwise than according to such report, he shall immediately forward a statement of his *reasons to the* Court of *Sudder* Dewanny Adawlut: and the Court of Sudder Dewanny Adawlut, if they shall be dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.—Act XIX, 1841, Sec. viii.

The *Curator* shall be *subject to all orders of the Judge* regarding the institution, or the defence of *suits*, and that all suits may be instituted or defended in *the name of the Curator* on behalf of the Estate. *Provided* that an *express authority* shall be requisite in the *sunnud* of the Curator's appointment for the collection *of debts or rent;* but such express authority shall enable the Curator to give a *full acquittance* for any sums of money received by virtue thereof.—Act XIX, 1841, Sec. ix.

Pending the custody of the property *by the Curator*, it shall be lawful for the Judge to make *such allowances* to *parties*

having a primâ facie right thereto, as, upon as ummary investigation of the rights and circumstances of the parties interested, he shall consider that necessity may require, taking, at his discretion, *security* for the payment thereof, with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.—Act XIX, 1841, Sec. x.

The Curator shall file *monthly accounts* in abstract, and at the period of *every three months*, if his administration last so long; and upon *giving up* the possession of the property, file a *detailed account* of his administration to the satisfaction of the Judge.—Act XIX, 1841, Sec. xi.

The *accounts* of any such Curator as is above described shall be *open to the inspection* of all parties interested; and it shall be competent for any such interested party to appoint a *separate person* to keep a *duplicate account* of all receipts and payments by such Curator: and *if* it be found that the accounts of any such curator are *in arrear, or* if they shall be *erroneous* or incomplete, or if the Curator shall *not produce* them whenever he shall be ordered to do so by the Judge, he shall be liable to a *fine* not exceeding *one thousand* rupees for every such default.—Act XIX, 1841, Sec. xii.

After the Judge of any District shall have appointed any Curator, such appointment shall *preclude* the *Judge of any other district* within the same Presidency from *appointing any other Curator, provided* the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a *portion of the property of* the deceased, this shall *not preclude* the appointment within the same Presidency of *another curator,* in respect of the residue or any portion thereof: *provided* always, that no Judge shall appoint a Curator, or entertain a summary suit, in respect of property which is the subject of a summary *suit previously instituted* under this Act before another Judge: and *provided further,* that if *two or more Curators* be appointed by different Judges for several parts of an Estate, it shall be lawful for the Sudder Dewanny Adawlut to make such order as it shall think fit for the appointment of one Curator of the whole property. —Act XIX, 1841, Sec. xiii.

This Act shall *not* be put *in force, unless* the aforesaid *application* to the Judge be made *within six months* of the decease of the proprietor, whose property is claimed by right in succession.—Act XIX, 1841, Sec xiv.

This *Act* shall *not* be put in force to *contravene* any public Act of *settlement. Neither* in cases in which the *deceased* proprietor shall have given *legal directions* for the possession of his property after his decease, in the event of minority or otherwise, in

opposition to such directions; but, in every such case, so soon as the *Judge* having jurisdiction over the property of a deceased person shall be satisfied of the *existence of such directions, he shall give effect thereto.*—Act XIX, 1841, Sec. xv.

This *Act* shall *not* be put *in force* for the purpose of disturbing the possession of the *Court of Wards* of any Presidency; and in case a minor, or other disqualified person whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the Judge if he determine to cite the party in possession, and also appoint a Curator, shall invest the Court of Wards with the *Curatorship* of the Estate, pending the suit, *without* taking such *security* aforesaid; and in case the minor or other disqualified person shall, upon the adjudication of the summary suit, appear to be entitled to the property, possession shall be delivered to the Court of Wards.—Act XIX, 1841, Sec. xvi.

Nothing in this Act contained shall be any *impediment to* the bringing of a *regular suit*, either by the party whose application may have been rejected, before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act.—Act XIX, 1841, Sec. xvii.

The *decision of* the *Judge, upon the summary suit* under this Act, shall have no other effect than that of settling the *actual possession*; but *for this* purpose it shall be *final*, not subject to any appeal or order for review.—Act XIX, 1841, Sec. xviii.

It shall be lawful for the Governments of the respective Presidencies to appoint *Public Curators* for any district or number of districts: and the Judge having jurisdiction shall nominate such Public Curator or Curators in all cases where the choice of a Curator is left discretionary with him, under preceding provisions of this Act.—Act XIX, 1841, Sec. xix.

Whenever a person dies leaving moveable or immoveable property within the local limits of the Jurisdiction of any of *Her Majesty's Supreme Courts*, and such Court shall be satisfied that danger is to be apprehended of the misappropriation and waste of the property before it can be ascertained who may be legally entitled to the succession to such property, it shall be lawful for the said Court to authorize and enjoin the *Ecclesiastical Register, or one or more Curators, to collect* such effects, and hold, or deposit, or invest the same, in such manner and place and upon such security, and subject to such orders and directions as the Court may deem expedient. —Act XIX, 1841, Sec. xx.

SUDDER AMEENS; *Who eligible; Deeds of appointment; Oath; Pay; Removal; (V. Moonsiffs,) Rules for Trials by; Jurisdiction; Original Suits; Nazirs*

and Tulubana; Pleaders before; Paupers.

The selection and number of Sudder Ameens shall be regulated in future in such manner as the Governor-General in Council may be pleased to direct. *No person* shall by reason of place of birth or descent, or of class or of religious persuasion, be *incapable* of being a Sudder Ameen, and every Sudder Ameen, being a British born subject of the Queen, or a descendant of such British born subject, shall, in respect of all Acts done by him as such Sudder Ameen, be liable to the same proceedings, and shall be amenable to the Jurisdiction of the same tribunals as if he were not of British birth or descent.—Reg. V, 1831, Sec. xiii; Act VIII, 1836.

Sunnuds shall be granted to Sudder Ameens under the seal and signature of the Judge, drawn up according to a prescribed form.—Reg. XXIII, 1814, Sec. lxv.

Every person who may in future be appointed to the Office of Sudder Ameen shall, previously to entering upon the execution of the duties of his situation, make and subscribe a *solemn declaration* before the Judge of the Zillah or City in which he may be appointed to officiate, according to the following *form*:—

"I, A. B., appointed to the Office of Sudder Ameen of the Zillah or City of ———, do solemnly declare, that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive, any money, effects or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance; and I will, in all respects, truly, and faithfully execute the trust reposed in me."—Reg. XXIII, 1814, Sec. lxvi; Reg. XVIII, 1817, Sec ii.

The Sudder Ameens shall in lieu of fees and other compensation receive from Government such *monthly allowances* as may be fixed for them respectively by the orders of the Governor-General in Council.—Reg. XIII, 1824, Sec. ii, cl. 2.

Removal of Sudder Ameens, Reg XXIII, 1814, Sec. xlviii, and lxxiii; Reg. V, 1831, Sec. xxvi, cls. 1 to 4. (See "Moonsiffs.")

Sudder Ameens liable to prosecution in the Civil and Criminal Courts.—Reg. XXIII, 1814, Sec. x, cls. 1 and 2, and Sec. lxvii; Reg V, 1831, Sec. xxvi, cl. 5 (See "Moonsiffs.")

No person whatever, shall, by reason of place of birth, or by reason of descent, be, in any Civil proceeding whatever, *exempted* from the Jurisdiction

of any Sudder Ameen.—Act XI, 1836, Sec. ii.

When a Plaintiff may have been admitted by the Judge of a Zillah or City Court to institute his suit in *formâ pauperis*, under the rules for paupers contained in Reg. XXVIII, 1814, and the *suit* may, in other respects, be *referrible* to a Sudder Ameen, it shall be competent to the Judge to refer the same for trial and decision by one of the Sudder Ameens attached to the Zillah or City Court, or stationed in any other part of his Jurisdiction; and the suit so referred shall be proceeded upon by the Sudder Ameen as in other suits referred to him, subject to the provisions contained in Reg. XXVIII, 1814.—Reg. XIII, 1824, Sec. iv, cl. 2.

The provisions in the Regulation above mentioned respecting pauper Defendants in original suits, as well as those respecting pauper Appellants and Respondents in appealed cases, shall likewise be considered applicable to *Defendants in original suits, and to Appellants and Respondents* in appealed cases referred for trial to Sudder Ameens; but no person shall be admitted by a Sudder Ameen to prosecute or defend an original suit or appeal, in *formâ pauperis*, without the *written order* of the Zillah or City Judge, authorizing the admission of the party as a pauper under the provisions of Reg. XXVIII, 1814.—Reg. XIII, 1824, Sec. iv, cl. 3.

The Judges who are empowered by Sec. v, of the Regulation above mentioned to employ an authorized Officer of the Court in taking the examinations of parties and witnesses for the purposes therein specified, may however *employ the Sudder Ameens* attached to their respective Courts, *in taking such examinations and generally* in making the inquiries provided for by that Regulation. But no final order for the admission of a pauper shall be passed by a Sudder Ameen, nor shall the *commitment* of pauper Plaintiffs to close custody, in pursuance of Sec. xi, Reg. XXVIII, 1814, be carried into execution by a Sudder Ameen, *without the sanction* of the Judge.—Reg. XIII, 1824, Sec. iv, cl. 4.

SUDDER AMEENS; *Law Officers as. Cases of Native Law to be sent, to.*

The Mahomedan and Hindoo *Law Officers* of the Zillah and City Courts shall not be deemed Sudder Ameens *ex officio*, but shall be *eligible* to the office like other individuals; and whenever they may be so elected, the Judge shall generally refer such cases as are likely to involve questions of Hindoo Law to the Hindu Law Officer, and of Mahomedan Law to the Mahomedan Law Office.—Reg. XXIII, 1814, Sec. lxix; Reg. V, 1831, Sec. xiv, cl. 2.

SUDDER DEWANNY ADAWLUT; *Locality; Members; Oaths of Judges and Registers; De-*

puty; Duties of Registers; Law Officers of; Oaths and Duties; N. W. P.; Single Judge; Judges differing; Language; Translations; Statements; Reports; Jurisdiction; Form of Trials; Petitions to; Precepts from; Powers of; Period for appeal; Notice; Proclamation; Exhibits; Pleadings; Copies; Certificate; Records; Part of decision; not in appeal; Separate appeal; Respondent; Pauper; Error not to affect merits.

A Court of Sudder Dewanny and Nizamut Adawlut shall be held at Calcutta.—Reg. VI, 1793, Sec. iii; Reg. IX, 1793, Sec. lxvi.

The Court of Sudder Dewanny Adawlut and Nizamut Adawlut at Calcutta, shall consist of *as many Judges* as the Governor-General in Council may from time to time deem necessary for the despatch of the business of those Courts. The Court shall have a Register.—Reg. IX, 1793, Sec. lxix; Reg. XII, 1811, Sec. ii, cl. 2; Reg. III, 1829, Sec. ii.

The Judges who may be appointed to the Courts of Sudder Dewanny and Nizamut Adawlut shall take the prescribed *Oaths* of Office before any person whom the Governor-General in Council may commission to administer them. —Reg. II, 1801, Secs. iv and xi; Reg. III, 1829, Sec. iii; Reg. VI, 1831, Sec. v.

As Judges of the Sudder Dewanny Adawlut they shall take and subscribe the *following* oath :—

"I, A. B., appointed Judge of the Court of Sudder Dewanny Adawlut, solemnly swear that I will administer Justice conformably to the Regulations that have been, or may be passed by the Governor-General in Council, according to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any *present or nuzzer*, either in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court of Sudder Dewanny Adawlut of which I am appointed a Judge; that I will not knowingly *permit* any person or persons under my authority, or in my immediate service, *to receive*, directly or indirectly any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court; that I will render a true and faithful *account* of all sums of money that may be paid into the Court, or disbursed from it; that I will *not be concerned* directly or indirectly, in the *purchase of goods* or commodities in the British dominions in Bengal for the purpose of remitting money to Europe, or in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from

my station, excepting such as the orders of Government do or may authorize me to receive. So help me God."—Reg V, 1793, Sec. II; Reg. II, 1801, Sec. IV.

The *Registers* of the Courts of Sudder Dewanny and Nizamut Adawlut, as well as the *Deputy* Registers, and *Assistants* to such Registers, before entering upon the duties of their respective Offices, shall take the *following oaths.*—Reg IX, 1793, Sec. lxx; and Reg. VI, 1831, Sec v.

As Registers, Deputy Registers, or Assistants to the Registers, to the Sudder Dewanny Adawlut:—

"I, A. B., Register (or Deputy Register, or Assistant to the Register, or other Officer) to the Sudder Dewanny Adawlut, solemnly swear that I will truly and faithfully perform the duties of Register (or Deputy, or Assistant to the Register or other Officer) to this Court, according to the best of my knowledge and ability; that I will *not receive*, directly or indirectly, any *present or nuzzer*, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the Court of Sudder Dewanny Adawlut, of which I am appointed Register (or to the Register of which I am Assistant, or other Officer); that I will *not* knowingly *permit* any person or persons under my authority, or in my immediate service, *to receive*, directly or indirectly, any present or nuzzer in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court; that I will *not be concerned*, directly or indirectly, *in the purchase of any goods* or commodities in the British Dominions in Bengal, for the purpose of remitting money to Europe, nor in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive So help me God."—Reg. XIII, 1793, Sec. III, cl. 1.

Whenever the Governor of Bengal, and the Lieutenant-Governor, or other authority exercising the powers of Lieutenant-Governor of the North-Western Provinces, shall deem it expedient to appoint any persons, *not* being *Covenanted* servants, to the Offices of *Deputy-Register* or *Assistant*-Register to the Court of Sudder Dewanny and Nizamut Adawlut at Calcutta and Allahabad respectively, it shall be competent to those Courts to assign to the Officers above named *any duties* at present performed *by the Registers.*—Act VII, 1840

It shall be competent to either of the Courts of Sudder Dewanny and Nizamut Adawlut, by an order under the signature of the Register of such Court, to transfer to such

Register the duty of preparing appealed causes for trial, and of executing the decrees and orders of the said Courts, and to authorize him to issue the necessary process, and to proceed thereupon agreeably to the rules prescribed by the General Regulations of Government.—Act XVII, 1841, Sec. i.

The Registers to the Courts of Sudder Dewanny and Nizamut Adawlut, after the rising of the Courts, are to procure all acts of the Courts to be executed. The Assistants to the Registers, and the Native Officers attached to the Courts, are to assist the Registers in performing the abovementioned duties, and in translating and transcribing papers, and in arranging and keeping the Records of the Courts. The Registers and their Assistants, and the native Officers, are to perform the duties specified in this Sec. in the manner and conformably to the rules which the Judges of the Courts to which they may be respectively attached may think it proper to prescribe. The Native Officers of each Court are not to interfere in any other manner than as above directed, publicly or privately, in any cause or matter depending before the Court, or which may have been or shall be intended to be brought before it.—Reg. XIII, 1793, Sec. viii; Reg. II, 1821, Sec. xiv.

The Courts of Sudder Dewanny and Nizamut Adawlut shall have so many *Law Officers* as the Government shall appoint —Reg. XII, 1793, Secs. ii and iv; Reg. XXXIX, 1793, Sec. ii; Reg. VI, 1831, Sec. iv; Reg VI, 1832, Sec. vi.

The *Mahomedan Law Officers* of the Courts of Civil Judicature, previous to entering upon the execution of the duties of their Offices, are to take and subscribe the following *Oath* before the Court to which they may be respectively attached:

"I, A. B., Cauzy (or mufty) to the Sudder Dewanny Adawlut, (or the Dewanny Adawlut of the Zillah or City of ———), solemnly declare, that I will truly and faithfully perform the duties of Cauzy (or mufty) of this Court, according to the best of my knowledge and ability, and that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the Court of which I am Cauzy (or mufty); and that I will not, directly or indirectly, derive any advantage or emolument from my Office, excepting such as the orders of Government do or may authorize me to receive."—Reg. XII, 1793, Sec. v; and Reg. XVIII, 1817, Sec. ii.

The *Pundits* to the Courts of Civil Judicature, previous to entering upon the execution of the duties of their Offices, are to make and subscribe the following *declaration* before the Courts to which they may be respectively attached:

'I, A. B., Pundit to the Sudder Dewanny Adawlut, (or the Dewanny Adawlut of the Zillah or City of ————), solemnly declare, that I will truly and faithfully execute the Office of Pundit of this Court according to the best of my knowledge and ability; that I will answer all questions that may be put to me in writing or orally by the said Court; that I will declare or give in writing what is in the Shaster; that I will not declare or give in writing what is not warranted by the Shaster; that if I declare anything not warranted by the Shaster, I shall be deserving of punishment from Ishwur. I promise and declare that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court of which I am Pundit, and that I will not, directly or indirectly, derive any advantage or emolument from my Office, excepting such as the orders of Government do or may authorize me to receive."—Reg. XII, 1793, Sec. vii; and Reg. XVIII, 1817, Sec. ii.

The Court of Sudder Dewanny Adawlut is to use a circular *Seal* two inches and a quarter in diameter, with an inscription to the following effect, in the Persian and Bengal characters and languages, and in the Hindostanee language and Nagree character: "The Seal of the Sudder Dewanny Adawlut."—Reg. VI, 1793, Sec. iii.

The Court of Sudder Dewanny is to be an *open Court*. The ordinary sittings shall be holden as the despatch of business may require. Special sittings when necessary shall be summoned by the Register on his receiving orders for that purpose. All process issued by the Court shall be signed by the Register under such instructions as shall be prescribed by the Court for his guidance.—Reg. VI, 1793, Sec. iii; Reg. II, 1801, Sec. vi; and Reg. VI, 1831, Sec. vii, cl. 1.

The Courts of Sudder Dewanny Adawlut and Nizamut Adawlut shall possess within the divisions, provinces, and territories, subject to their Jurisdiction all the *powers* vested by Regs. VI and IX, 1793, in those Courts respectively, and by all subsequent Regulations and Acts in force, and shall perform all duties required to be performed by those Courts by all such Regulations and Acts subject to all modifications which have been or may hereafter be duly enacted and published.—Reg. II, 1801, Secs. v and xii; Reg. VI, 1831, Sec. vi.

The term "Sudder Court" shall be deemed applicable to the Courts respectively of the highest Civil and Criminal Jurisdiction, as the case may be, of the Presidencies.—Act VIII, 1842.

Whenever and so often as only *one Judge* may be present with the Courts of Sudder

Dewanny Adawlut, or Nizamut Adawlut for the *North-Western Provinces*, or if any difference of opinion should arise when only two Judges may be present in either Court, in any matter requiring under the existing Regulations the concurrent voices of two Judges, the question shall be referred, as the case may be, for the determination of one of the Judges of the Court of Sudder Dewanny or Nizamut Adawlut stationed at Calcutta; *Provided*, moreover, that in such case it shall be sufficient that the Judge to whom the point may be referred should form and record his Judgment on a careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their Vakeels.—Reg. VI, 1831, Sec. vii.

Whenever *three Judges* of the Sudder Court shall sit as a Dewanny or Nizamut Adawlut, and a *difference of opinion* shall arise between them, the voices of the *majority shall determine* the question; but if a difference of opinion shall arise when *two Judges* only are present, the question before the Court shall be adjourned until a *third Judge* shall attend; but whenever there may be four Judges present at a Court of Sudder Dewanny or Nizamut Adawlut at Calcutta, or in the Western Provinces, and there may be an *equality of voices* in cases which require a decision by the majority, it shall be competent to the Court *to refer the question* for decision to a Judge of a Sudder Dewanny or Nizamut Adawlut (as the case may be) at Calcutta, or in the Western Provinces respectively; and it shall be sufficient that the Judge to whom the point may be referred, shall form and record his Judgment on a careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their Vakeels.—Reg. II, 1801, Secs. vi and xiii; Reg. IX, 1831, Secs. ix and x, and Reg. XXV, 1814, Sec. xviii.

The proceedings of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, which have been heretofore kept in the English language, and copied for transmission to the Governor-General in Council and to the Honorable Court of Directors, are not required to be hereafter kept in *English*, further than the Courts may find convenient and conducive to regularity; *nor* will *copies* of the proceedings of either Court be hereafter *required*, *except* in cases of Appeal to Her Majesty in Council, or of reference to the Governor-General in Council, as prescribed by the Regulations; in which cases *attested copies and translations* are to be furnished as heretofore.—Reg. II, 1801, Sec. xvi.

Any *translations* which may be hereafter required by either Court of Sudder Dewanny or Nizamut Adawlut, are to be made by the Registers and their Assistants; or if, at any time,

there other official avocations should not admit of their making the requisite translations, the Court is empowered to cause the same to be made by *any other competent* person, as authorized with respect to trials referred to the Nizamut Adawlut, by Sec. iii, Reg. X, 1799.—Reg. II, 1801, Sec. xvii.

The Zillah and City Courts are directed to furnish *translations of original papers* transmitted to the Sudder Dewanny Adawlut in such cases only wherein translations may be required by the *precepts* of that Court or by any Regulation or Order requiring the same.—Reg. II, 1801, Sec xviii.

Whenever the Court of Sudder Dewanny Adawlut, upon *Appeal to Her Majesty in Council*, or otherwise, may have occasion to require translations of any proceedings held, or original papers filed in a Zillah or City Court, such *translations are to be prepared by the Zillah and City Courts*.—Reg. II, 1801, Sec. xix.

The Courts of Sudder Dewanny and Nizamut Adawlut shall, from time to time, as circumstances require, prescribe the *forms* and fix the *periods* of transmission, and mode of preparation of all Reports, Calendars, Registers, or other *statements*, to be furnished by the Civil or Criminal Courts, European or Native, or by the Judicial or Police Officers under this Presidency.—Reg. VII, 1829, Sec. iii, cl. 1.

Nothing in this Regulation shall be construed to supersede the necesstiy of the preparation and transmission as heretofore, of the prescribed Reports and Statements, until the Court of Sudder Dewanny or Nizamut Adawlut may specially prescribe any alteration in, or direct the discontinuance of, any particular Report or Statement.—Reg. VII, 1829, Sec. iii, cl. 2.

It shall be competent for the Courts of Sudder Dewanny and Nizamut Adawlut to frame such *Rules of practice* for the due exercise of the Civil and Criminal Jurisdiction vested by the Regulations in those Courts, as may from time to time be found requisite. And such rules, when so framed, shall be submitted to the Governor-General of India in Council; and after the same shall have been approved by the said Governor-General of India in Council, they shall be of the same force as if they were inserted in this Act.—Act XVII. 1841, Sec. ii.

No person whatever shall by reason of place of birth, or by reason of descent, be, in any Civil proceeding whatever, *exempted* from the Jurisdiction of the Courts of *Sudder* Dewanny Adawlut.—Act XI, 1836, Sec. ii.

In matters which the *Sudder* Dewanny Adawlut may be empowered by any Regulation to try in the first instance, and also in appeals that may be preferred to the Court from decisions of the Lower Courts, the Court is *to proceed in the same manner*, and with like powers and authority, and subject to the same restrictions,

limitations, and exceptions, *as* are prescribed to *the Zillah and City Courts*.—Reg. VI, 1793, Sec. vii

The Sudder Dewanny Adawlut are vested with authority to *receive any petitions respecting* suits or *matters* that may be depending, or have been decided, in *any Lower Court;* and provided it shall be proved to their satisfaction that the petition was presented to the Judge of such Court, and that he refused or omitted to receive it and proceed on it, and that the complainant applied to the Court appealed from, and that such Court omitted or refused to grant the precept specified in Sec. vi, Regulation II, 1798, the Court are empowered to *issue a precept*, under the seal of the Court and attested by the Register, *commanding* the Judge *to receive* the petition, *and to proceed* respecting it, according to the Regulations. —Reg. II, 1798, Sec. vii.

N. B.—*This principle applies as between Superior* and *Lower Courts, generally.*

In such suits as by any Regulation may be authorized to be tried in the first instance before the Sudder Dewanny Adawlut, and in appeals that may be heard by that Court, *no proceedings* are to be held, *nor* any *acts whatever done*, either on behalf of the plaintiff, or defendants, or the appellant, or respondent, *excepting* by *the plaintiff or defendant, the appellant or respondent* respectively, *or by a vakeel* admitted to plead in the Court, *nor* by any vakeel *before* his *vakalutnamah* shall have been *filed* in the Court; and no persons, excepting such parties or their witnesses, or such vakeels, shall be heard *vivâ voce* in any stage in the cause.—Reg. VI, 1793, Sec. xx.

The Court are *empowered* to *confirm or reverse*, in whole or in part, all decrees from which they are or may be authorized to receive appeals, and to make such further order on all such decrees as justice, equity, and good conscience may require; and award such *costs* to either party as they may deem reasonable.—Reg. VI, 1793, Sec. ix, cl. 3.

Every petition of regular *appeal* in a case appealable to either of the Sudder Courts shall be presented to the Court in which the decision was passed *within six weeks* from the day of the decision. *Such petition* of appeal shall, except in cases of petitions under Sec. xiii, Act XV, of 1853, contain *only notice* that the party, being dissatisfied with the decision, *is desirous of appealing* from it.—Act XV, 1853, Sec. ii, cl. 1.

The *Sudder* Court *may extend the time* for presenting such petition of appeal to the Lower Court, upon being satisfied that there is *sufficient cause* for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the Lower Court, at the option of the applicant.—Act XV, 1853, Sec. ii, cl. 2.

On presentation of a petition of regular appeal to the Court in which the decision was passed, *notice* thereof *to* the *respondent*, as well as a *proclamation* to the same effect, shall immediately issue from that Court; and a *copy* of the proclamation shall be forthwith fixed up *in* some conspicuous part of the *Court-House* of the said Court. *If* the notice *cannot be personally served*, the proclamation shall at once be fixed upon the door of the respondent's *dwelling*-house, or in some conspicuous place in the *village* or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the Jurisdiction of the Company's Courts, the proclamation may be fixed upon *the door of his house* of *business* or *cutcherry*, *or* the notice may be served *on his known local agent*. In case the proclamation cannot be fixed, or the notice served in the manner above mentioned, the proclamation shall be fixed up *in such other place*, if any, *as* the said last-mentioned *Court shall direct*. The Nazir shall make a *return* to the Court stating *when and where* the notice and proclamation have been served, or fixed up. The return of the Nazir shall be filedin Court, and shall form part of the record of the case, and such return shall be published, by fixing up the same in some conspicuous part of the *Court-House* of the *Lower Court*.—Act XV, 1853, Sec. iii.

It shall be necessary to *copy*, authenticate, and deposit only the *exhibits* in the case, and also any *other papers of importance*, including the *pleadings*, or any parts of them, which either of the *parties shall require* to be copied, authenticated, and deposited in the Lower Court, previously to their being transmitted to the Sudder Court.—Act XV, 1853, Sec. iv, cl. 1.

If either of the parties require any papers to be *copied*, *authenticated*, and *deposited*, such party, shall, either by himself or his pleader or authorized agent, give *notice* in writing thereof to the Lower Court, before the expiration of *fourteen days* from the time of the publication of the return of the Nazir as aforesaid. Such notice shall *specify the papers* which the party requires to be copied, authenticated, and deposited.—Act XV, 1853, Sec. iv, cl. 2.

Either *party* may, by himself or his pleader or authorized agent, before the presentation of an appeal, *give notice* in writing to the Lower Court, *specifying* any *papers* or documents which he requires *to be copied*, authenticated, and deposited, in the event of an appeal being preferred.—Act XV, 1853, Sec. iv, cl. 3.

The *petition of appeal*, together with the *record* of the Lower Court, shall be *certified* to the Sudder Court, as soon as conveniently may be, after the presentation of the petition of appeal: *provided* that the

same shall *not* be *certified* within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated, and deposited.—Act XV. 1853, Sec. v.

On arrival of the appeal record at the Sudder Court, *notice* shall be affixed in the Court-House of the said Court, requiring the appellant to file, *within six weeks* from the date thereof, his *grounds of objection* to the decision of the Court below. Within the said space of six weeks the appellant shall file in the said Sudder Court his grounds of objection to the decision—Act XV, 1853, Sec. vi.

On the filing of the grounds of objection by the appellant, *notice* shall be affixed in the *Court-House of the Sudder* Court requiring the *respondent to file his grounds* of objection, if any, to the appeal or to the decision of the Lower Court *within four weeks* from the date of such notice.—Act XV, 1853, Sec. vii, cl. 1.

Within the said space of *four weeks*, the *respondent* shall file any grounds of *objection* which he has to the *appeal*, or which relate to such parts of the decision as are involved in the appeal —Act XV, 1853, Sec. vii, cl. 2.

If the *respondent* shall desire to *object to* any *part of the decision* of the Lower Court *not involved in the appeal*, he may present a *separate petition* of appeal to the Sudder Court, *within* the said space *of four weeks*, or within such further time as the said Sudder Court shall allow for that purpose.—Act XV, 1853, Sec. vii, cl 3.

The respondent shall, in such case, file with his petition of appeal, his grounds of objection to that part of the decision to which his appeal relates: otherwise his appeal shall not be received.—Act XV, 1853, Sec. vii, cl. 4.

At the expiration of the time allowed to the respondent for filing his grounds of objection and for filing a separate petition of appeal in the Sudder Court, the *record* shall be deemed *complete*, and the case ready *to be called up* for decision *on any day* which the Sudder Court may notify, unless the respondent within such time file a separate petition of appeal in the Sudder Court.—Act XV, 1853, Sec. viii, cl. 1.

If the respondent file a *separate petition of appeal* in the Sudder Court, *notice* shall be fixed up in the Court-house of the Sudder Court to the effect that the *respondent* has filed such *separate appeal*. and the notice shall require the appellant to file any *grounds of objection* which he may have thereto, *within* the space of *four weeks* from the date of the notice.—Act XV, 1853, Sec. viii, cl. 2.

Within such space of *four weeks* the *appellant may file any grounds of objection*, which he has to such appeal, or which relate to that part of the decision which is involved in the respondent's appeal. At the

expiration of the time allowed for filing such grounds of objection by the appellant, the *record* shall be deemed *complete*, and the *case ready* to be called up for decision *on any day* which the Sudder Court shall notify for that purpose.—Act XV, 1853, Sec. viii, cl. 3.

If the appeal of *either* party be *dismissed* or *withdrawn*, the appeal of the other may be heard alone; otherwise the *two appeals*, and the proceedings thereon shall form *one record*, *unless* the Sudder Court shall otherwise order.—Act XV, 1853, Sec. viii, cl. 4.

The *Respondent* shall *not* be *allowed* to present a *separate* petition of *appeal* in the Sudder Court, if he shall previously have presented a petition of appeal to the Lower Court — Act XV, 1853, Sec. ix.

All *grounds of objection* which shall be filed by either the appellant or the respondent, shall be stated *distinctly* and *concisely*, without any argument, or narrative of facts, and shall be numbered consecutively, and except in the cases hereinafter mentioned, shall be on paper bearing the Stamp duty prescribed by Article 9, Schedule B, Reg. X, 1829.—Act XV, 1853, Sec. x, cl. 1.

The Sudder Court *may extend the time* for filing grounds of objection, either by an appellant or respondent, *upon* special *application* for that purpose, *and* upon *sufficient reasons* being shown to the satisfaction of the said Court, for such *extension of time*. In such case, the objections may be filed within such extended time.—Act XV, 1853, Sec. x, cl. 2.

Either party may, by leave of the Sudder Court, or any Judge thereof, at any time *before the hearing*, *amend his grounds of objection*, or *add* grounds of objection to those filed, *upon* such terms and *conditions*, and within such time as the said Court or Judge may order. The said Court may *also*, *upon the hearing* of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge and be heard by himself or his pleader, in support of any objection not included in his grounds of objection, *upon* such terms and *conditions* as to postponement of the cause, and as to the payment of *costs* or otherwise, as the Court shall think just, to prevent the opposite party or his pleader from being *taken by surprise* or otherwise. Without such leave of the Court, neither party shall be allowed to urge, or be heard in support of, any objection not included in his grounds of objection filed. But the Court shall not be confined to such grounds of objection, on deciding the cause.—Act XV, 1853, Sec. xi.

The *Sudder Court may call up* for hearing and decision *on any day the Court shall notify*, and without regard to the place in which the case stands in the general list of appeals, *any grounds of objection* filed by

the respondent or the appellant, to the appeal of the opposite party, and the Sudder Court *may hear and decide* upon such grounds of objection, before calling the case up for decision upon the grounds of objection to the decision of the Lower Court.—Act XV, 1853, Sec. xii, cl. 1.

If the grounds of objection filed by the appellant and respondent, shall be upon *points of law only*, and shall *not raise* any question of *fact*, the Sudder Court may order the case to be called up for hearing and decision, *on any day* which the said Court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said Court.—Act XV, 1853, Sec. xii, cl. 2.

If the grounds of objection filed shall *raise questions of Law and Fact*, and it shall appear to the Sudder Court that the decision of the Law may render it unnecessary to determine any question of fact so raised, the Court may order the case to be called up for decision upon the *Law alone, in the first instance*, in the manner pointed out in Sec. xi, Act XV, of 1853, and *if* their decision of the case *upon* the *Law* shall render it *unnecessary to determine* any question of *fact*, the said Court shall pass a final decision in the case; *otherwise* the Court shall determine the *Law only*, and the case shall afterwards be set down in the list of regular appeals for hearing upon the question or questions of fact, and shall be determined in the same manner as any other regular appeal.—Act XV, 1853, Sec. xii, cl. 3.

If any party to a regular suit be desirous of being admitted to appeal in *formâ pauperis* to the Sudder Court, the *following procedure* shall be adopted.

The appellant shall present his *petition to the Lower Court* according to the rules prescribed by Sec. ii. cls. 1, 2. *Provided* that a petition to appeal in *formâ pauperis* against any decision passed before this Act shall come into operation, may be presented *within three months* from the day of the decision.—Act XV, 1853, Sec. xiii, cl. 1.

Petitions of appeal by parties desirous to appeal in *formâ pauperis* shall contain a *statement to that effect*, and also a *Schedule of* the *whole* real and personal *property* belonging to the petitioner, and the estimated *value* of such property, and shall be written on paper bearing the *stamp duty* of two rupees per sheet.—Act XV, 1853, Sec. xiii, cl. 2.

Upon the presentation of such petition, the *notice* to the respondent, and the *proclamation* shall state that the appellant desires to appeal in *formâ pauperis*.—Act XV, 1853, Sec. xiii, cl. 3.

On arrival of the *appeal record at the Sudder* Court, the *same procedure* shall be adopted in that Court, *as in* other cases of *regular appeal, except* that *after* the filing of the *grounds of objection* by the

appellant, *and before notice* shall be given requiring the respondent to file his grounds of objection, the *Sudder Court* shall *determine*, according to the rules now applicable to the determination of such cases, *whether* or not the *appellant shall be allowed* to appeal in *formâ pauperis*.—Act XV, 1853, Sec. xiii, cl. 4.

If the Sudder Court *allow* the petitioner to appeal in *formâ pauperis, notice shall be given to the respondent* to file his grounds of objection in the manner provided by Sec. vii, and the *same procedure* shall be adopted subsequently thereto, *as in* other cases of *regular appeal* under this Act. The rules and conditions now applicable to persons admitted by the Sudder Court to appeal in *formâ pauperis* shall continue in force, except where the same are inconsistent with any of the provisions of this Act. —Act XV, 1853, Sec. xiii, cl. 5.

If the Sudder Court refuse to allow the petitioner to *appeal* in *formâ pauperis*, the said Court may make an order to the effect, that the appellant, upon filing a petition of appeal in that Court, upon paper stamped with the Stamp duty required by Article, 8, Schedule B, Reg. X, 1829, and upon re-filing his grounds of objection on paper stamped with the Stamp duty required by Article 9, of the same Schedule, may proceed with the appeal, according to the rules prescribed by this Act in the case of persons not appealing as paupers.—Act XV, 1853, Sec. xiii, cl. 6.

Upon such order being made, the appellant shall file his petition, and *re-file* his objections upon paper stamped with the Stamp duty required by Sec. xiii, cl. 5, *within two weeks* from the date of such order, or within such further time as the said Court may allow for that purpose: otherwise the appeal shall stand dismissed.—Act XV, 1853, Sec. xiii, cl. 7.

Upon the re-filing of the grounds of objection, according to the provisions of the last preceding Sec., *notice* of the order, and of the re-filing of such objections shall be given *to the Respondent* in the manner prescribed by Sec. vii; and the Respondent shall be required to file his grounds of objection, if any, according to the provisions of that Sec. The *procedure subsequent* to such notice shall be according to the *general provisions of this Act*. —Act XV, 1853, Sec. xiii, cl. 8.

If an Appellant shall petition to appeal in *formâ pauperis*, his grounds of objection may be written on *plain paper*.—Act XV, 1853, Sec. xiii, cl. 9.

If an Appellant shall be permitted to appeal, or a Respondent to defend, in *formâ pauperis*, all grounds of objection, subsequently filed by either party, may be written on *plain paper*.—Act XV, 1853, Sec xiv.

No decision shall be reversed or *altered, nor* shall any case be *remanded* upon appeal to

the Sudder Court on account of any error, defect, or *irregularity, not productive of injury* to either party, *nor opposed to any express enactment*, contained in the general Regulations or Acts of Government.—Act XV, 1853, Sec. xv.

This Act extends only to *Regular Appeals*, which shall be presented after the passing of this Act, in Civil cases appealable to either of the Sudder Courts in the Presidency of Fort William in Bengal.—Act XV, 1853, Sec. xvi.

SUDDER DEWANNY ADAWLUT; *Single Judges; Powers of as to trials; Calling for records; Points of Law; Single Judge may be one of three called in; Reference of Single Judge to a second; Powers of Sudder Dewanny Adawlut as to Single Judge.**

Whenever from any unavoidable cause, the regular sittings of the Court of Sudder Dewanny Adawlut cannot be held before two or more Judges of that Court, or whenever it may appear requisite for the speedy trial and decision of the great number of appeals depending before the said Court, or for the general despatch of business, that separate sittings should be held before one or more Judges thereof, it shall be competent to a *Single Judge* of the said Court to *hold a sitting of* Court *on all matters within the cognizance of the Sudder* Dewanny Adawlut, and to pass orders and judgments in conformity to the Regulations; and to dispose of all cases, regular as well as miscellaneous (with the exception of the cases specified in Reg. I, of 1831, Sec. ii, cl. 4; Act II, of 1843, Sec. i,) subject to the following provisions.—Reg. XIII, 1810, Sec. vi, cl. 2; Reg. XXV, 1814, Sec. vi; Reg. IX, 1831, Sec. ii, cl. 1; Reg. VII, 1832, Sec. xv.

In the trial of appeals, or on the hearing of any petition of appeal from the decisions or orders of any Courts of Inferior Jurisdiction, if a Single Judge of the Sudder Dewanny Adawlut shall be of opinion that no sufficient ground has been shewn to impugn the correctness or justness of such decision or order, it shall be competent to such *Single Judge*, without reference to the order of the file, to *confirm the same*, without requiring the attendance of the opposite party, and with or without a revision of the whole proceedings, as the nature of the case may appear to require. On the other hand, if a *Single Judge shall be of opinion that* the decision or order appealed against *ought to be altered* or *reversed*, as being manifestly unjust, or at variance with some Regulation in force, or in opposition to the Hindoo or Mahommedan Law, or other Law applicable to the case, or as having been passed without sufficient investigation of the merits, or as grounded on an assumption obviously erroneous or irrelevant, with reference to the points at issue, it shall

* The practice, as in these Laws, has been modified. But the Laws have not been rescinded.

likewise be *competent to a single Judge to issue an injunction*, pointing out the irregularity, illegality, or other defect apparent in the proceedings, decision, or order appealed against, and requiring that the Court by which the same may have been held or passed, shall revise the case, and proceed thereon in such manner as may appear conformable to Justice and to the Regulations.—Reg. IX, 1831, Sec. ii, cl. 2.

A *Single Judge* of the Sudder Dewanny Adawlut, holding a sitting under this Regulation, may exercise his *discretion* in *calling for the proceedings of the Lower Courts*, or such parts of them as may appear necessary, and may further order a report on any points requiring explanation, prior to passing a determination on the case or matter in appeal.—Reg. IX, 1831, Sec. ii, cl. 3.

Provided, however, that *if* the decree or *order* appealed against shall have been passed *in a regular suit or appeal*, after a full investigation of the merits, and the ultimate Judgment to be passed on the case may rest on a mere difference of opinion, as *to the facts or evidence, or on a disputed or doubtful point of Law*, or *Construction* of any Regulation in force, it shall *not be competent to a single Judge to alter* or reverse such decree or order. In such cases, he shall always call in *two other Judges* of the Court to sit with him, and the appeal shall be then heard by the three Judges sitting together, and be decided by them without any additional voices. In such cases the decree or final order shall be signed by the three Judges, if they agree together: but if one of them *dissent* from the view taken by the *majority*, by the two Judges who agree together, and the signature of the third Judge shall not be considered requisite, but his opinion shall be recited in the decree or final order.—Reg. IX, 1831, Sec. ii, cl. 4; Act II, 1843, Sec. i.

Provided that the preceding rule shall *not be applicable to summary appeals*, or to appeals in miscellaneous cases, nor shall it be held to interfere with the powers of a Single Judge of the Sudder Dewanny Adawlut, under Sec. 2. cl. 2. Reg. IX, of 1831.—Act II, 1843, Sec. ii.

No Judge of either of the Courts of Sudder Dewanny shall be *disqualified* from *being one of three* Judges sitting for the hearing and decision of an appeal, by reason of his having passed the decision in the Lower Court, against which the appeal is made.—Act II, 1851.

It shall further be competent to a *Single Judge* to *direct* that the *execution* of any Judgment or order passed by an inferior Court, in all cases in which that measure may appear to him expedient, may be *stayed*, until a final decision has been passed thereon.—Reg. IX, 1831, Sec. ii, cl. 5.

Provided, however, that *nothing* in the foregoing Sec.

shall be understood to *prohibit a single Judge*, in any case of difficulty or importance, in which he may deem it expedient and proper that the matter at issue should be decided by two or more Judges of the Court, *from* recording his own opinion thereon, and *referring* the case to another Judge.—Reg. IX, 1831, Sec. ii, cl. 6.

To enable the Court of Sudder Dewanny Adawlut duly to exercise the powers hereby vested in them, the several Courts of Subordinate Jurisdiction are strictly enjoined to conform to those parts of the Regulations in force, which require them to *record the point* or points *at issue* between the parties, and the *grounds* on which their *Judgment* or orders may be issued.—Reg. IX, 1831, Sec. ii, cl. 7.

Single Judges of the Sudder Dewanny Adawlut, holding sittings, are authorized to *perfect interlocutory decrees and orders; provided* that it shall *not be competent to a single Judge* to reverse or alter any decree or order of *any other Judge* or Judges of *the Court*. Single Judges may also execute all decrees and orders of the Sudder Court, ascertain and determine the sufficiency of securities, summon and examine witnesses, and determine on the admission or rejection of appeals. A single Judge of the Sudder Dewanny Adawlut may receive *miscellaneous petitions*, relative to matters depending before or decided by any Zillah or City Court, in all cases wherein the Court of Sudder Dewanny Adawlut are authorized to receive such petitions, and to proceed thereon as the Sudder Dewanny Adawlut are empowered to proceed.—Reg. I, 1807, Sec. iv, cls. 2 and 4; Reg. XIII, 1810, Sec. iv, cls. 2 and 6, and Sec. viii.

The powers vested in a single Judge of the Sudder Dewanny Adawlut shall *not* be construed to *prevent* the Court at large, or any two Judges of the Court, from *re-examining witnesses*, whose depositions may have been taken before a single Judge, if it appear requisite; or from examining any other witnesses in the cause, or *generally from passing any order* that may appear proper and consistent with the Regulations, whether in addition to, or in qualification or abrogation of, any previous order of a single Judge.—Reg. I, 1807, Sec. vii.

SUDDER DEWANNY ADAWLUT; *Transfer of Cases; to and from Zillah Courts.*

It shall be *lawful* for each of the Courts of Sudder Dewanny Adawlut *to direct*, by an order authenticated by the Official signature of the Register of such Court of Sudder Dewanny Adawlut, that the cognizance of *any original suit, or of any appeal* which may be brought before any Zillah or City Court, subordinate to such Court of Sudder Dewanny Adawlut, *shall be transferred to any other Zillah* or City Court subordinate to the same Court of Sudder

Dewanny Adawlut —Act III, 1837, Sec. i.

Provided always, that whenever either of the said Courts of Sudder Dewanny Adawlut shall, in the exercise of the power given by the preceding Sec. direct the transfer of the cognizance of any suit, such Court of Sudder Dewanny Adawlut shall cause the *reasons for such transfer to be recorded* on it's proceedings.—Act III, 1837, Sec. ii.

If it shall at any time appear to the *Sudder* Dewanny Adawlut, that from the *pressure* of business in any of the *Zillah Courts, any suit of the amount fixed for appeals to the Queen in Council,* can be more conveniently or expeditiously tried in the first instance by the Sudder Dewanny Adawlut than by the Zillah Court, before whom they may be depending, it shall be *competent to* the Sudder Dewanny Adawlut to order the *transfer of all* or *any of such suits from the Zillah Courts* to *the Sudder Dewanny Adawlut.* In the transfer and trial of such suits, the Sudder Dewanny Adawlut shall be guided by the same provisions as are prescribed for the conduct of the Zillah Courts regarding the transfer and trial of original suits depending in the Zillah and City Courts.—Reg. XXV, 1814, Sec. v, cl. i.

PREME COURT; *Processes in;*

Any writ, warrant, or other *process,* issued by any Court, Judge, or Magistrate in the territories beyond the *local limits of the Supreme Courts* of Calcutta, *may be executed* within those limits *in manner following:* —A copy of such writ, warrant, or other process, authenticated as such, by the attestation of the Court, Judge, or Magistrate signing, or issuing the same, accompanied by a *certified translation* in the English Language, shall be presented to any Judge of Her Majesty's Court, who may thereupon, under his hand and signature, *indorse* and direct the same to be executed within the local limits of any of Her Majesty's Courts by the Sheriff, or by any Justice of the Peace, according to the nature of such writ, warrant, or other process. —Act XXIII, 1840, Sec. i.

Upon the delivery of every such writ, warrant, or process, so indorsed as aforesaid, to any such Sheriff as aforesaid, every such Sheriff shall make a *Memorandum of the date of such delivery,* and shall execute such writ, warrant, or process, in like manner as if the same had originally issued from any of Her Majesty's Courts, and had been delivered at the date as appearing by the Memorandum, and such Sheriff shall make no distinction as to priority or otherwise between the execution of any writ, warrant, or other process originally issued from any of Her Majesty's Courts, and the execution of any writ, warrant, or other process under this Act; but every writ, warrant, and other process, whether original or indorsed as aforesaid, shall, amongst each other, be *subject*

to the same rules touching the mode and order of execution *as* are now established in respect of writs, warrants, and *other process originally issued from Her Majesty's Courts of* Justice.—Act XXIII, 1840, Sec. ii.

Every such *Sheriff* shall be *liable* to be proceeded against in Her Majesty's Court of Justice for all matters touching the execution of any writ, warrant, or other process, executed under this Act, in like manner *as if the same had originally issued from any of Her Majesty's Courts* of Justice; and all persons and property seized or detained under any writ, warrant, or process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the like writ, warrant, or other process issued from any of Her Majesty's Courts of Justice.—Act XXIII, 1840, Sec. iii.

All persons *disobeying or obstructing* the execution of any writ, warrant, or other process indorsed under this Act, shall be *punishable* in Her Majesty's Courts of Justice in like manner *as if the same had issued from such Courts; provided* always that in the case of process for the attendance of witnesses, Her Majesty's Courts shall be governed by the like *rules, touching expenses* and other matters, as are established in regard to subpœnas issued from such Courts.—Act XXIII, 1840, Sec. iv.

In the case of *persons seized or detained* by virtue of any writ, warrant, or other process executed under the authority of this Act, by any Justice of the Peace or by any Sheriff, it shall be the duty of every such Sheriff or Justice of the Peace, *if so required by the indorsement of the Judge*, to *deliver the party in* custody *to such authority* or persons as shall be particularly specified *in such indorsement*, and who shall have been charged with the execution of the writ, warrant, or other process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the Jurisdiction of Her Majesty's Courts.—Act XXIII, 1840, Sec. v.

Provided that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, it shall be lawful for the *Judge* who shall be required to indorse the same to *remit the same for amendment* to the authority issuing the same, *if* the same shall appear to be *defective* in any matter of form.—Act XXIII, 1840, Sec. vi.

Provided that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the Judge who shall be required to indorse the same, to direct, by indorsement, that *Bail*, (the amount and number of

sureties to be specified in such indorsement) may be taken, and for the purpose to call for such documents, and to make such inquiry as he shall think proper.—Act XXIII, 1840, Sec. vii.

All Civil and Criminal *Jails and Houses of correction within* the Jurisdiction of any of Her Majesty's *Supreme Courts* shall, according to the nature of the case, be *liable to be used* by the Sheriff *for the purposes for this Act;* and the parties imprisoned therein under the authority of this Act shall be liable to the prison discipline thereof; and *all sentences of imprisonment* passed by any Judge, Court, or Magistrate in the Territories of the East India Company *beyond the local limits of Her Majesty's Supreme Courts, may be executed* in whole or in part within any of the Jails or House of correction aforesaid, *provided* that a copy of the warrant of commitment or other process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.—Act XXIII, 1840, Sec. viii.

The Sudder Courts of the Presidency of Fort William in Bengal shall make, and from time to time amend, a table of *reasonable fees,* to be taken on account of the execution by the Sheriff of any legal process issued by any Court, Judge, or Magistrate, beyond the Jurisdiction of the Supreme Court established by Royal Charter in Calcutta, and of the sums to be allowed for costs of Advertisements, or other Notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be *payable* by the party applying for the process, *before* it *is sent* to the Sheriff for execution, and shall be deemed costs in the cause.—Act VIII, 1852, Sec. i.

The said *table of fees and sums,* when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William, to the Governor of Bengal, and by the Sudder Court of the North-Western Provinces of the said Presidency, to the Lieutenant-Governor of those Provinces, for his approval; and the said table of fees and sums have full force and effect, and the *fees and sums therein mentioned may be lawfully demanded* and taken, from and after the approval thereof by the said Governor or Lieutenant-Governor as the case may be.—Act VIII, 1852, Sec. ii. (V. Circular Orders, Thacker, Spink and Co. 1855, p. 376.)

Every such Court, Judge, and Magistrate, issuing process as aforesaid, shall cause a separate *account* to be kept of the amount of all fees and sums so paid, and shall, from time to time, as directed by Government, cause the amount thereof to be paid into the local Treasury.—Act VIII, 1852, Sec. iii.

The Government shall, *twice*

in each year, account for, and pay over to the Sheriff for the time being, the amount of *fees and sums* so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the net proceeds thereof to Calcutta; or, where the amount has accrued in the Shrievalty of *more than one Sheriff, shall apportion the sum* paid accordingly between the Sheriff for the time being and the then *late* Sheriff.—Act VIII, 1852, Sec. iv.

The said Government may *compound with the Sheriff* for a monthly payment to be made to him, instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.—Act VIII, 1852, Sec. v.

Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the *rate of two rupees eight annas for each hundred rupees of* the value of any goods or *property* taken and sold by him, *in execution* of any process issued by any Court, Judge, or Magistrate beyond the local Jurisdiction of the said Supreme Court, which fee shall be taken to *cover all expenses* connected with the seizure and sale, *except* the expense of *advertisements*.—Act VIII, 1852, Sec. vi.

No fee, estimated upon the amount *of the sum* for which any person is taken in execution, shall be *payable* to the Sheriff of Calcutta, or any of their Bailiffs, *for taking the body* of any person in execution on any process issued by any Court, Judge, or Magistrate, out of the local Jurisdiction of the said Supreme Courts respectively; but instead thereof, *such fees* shall be payable to the Sheriff for taking the body of any person in execution of any such process, *as shall be settled from time to time by the Sudder Court as aforesaid*.—Act VIII, 1852, Sec. vii.

If any person taken in execution on any such process shall *escape* out of the legal custody of the Sheriff, the *Sheriff shall not be liable to an action of debt for such escape*, but shall be liable *only to an action upon the case for damages*, in consequence of such escape, sustained by the person or persons at whose suit the prisoner was taken.—Act VIII, 1852, Sec. viii.

TRANSLATION, See p. 164. 165.

TREASURE TROVE; *Whose; if not more than one lac; Notice; Deposit; Whose, if more than one lac; Decisions; and Appeals as to.*

Whenever any *hidden Treasure*, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the Territory subject to this Presidency, and after *due Notification* the owner thereof may

not be discoverable, such hidden treasure shall become the *property of the person* or persons who may have *found* the *same, provided* it shall *not exceed* in amount or value the sum of *one lac* of rupees; *and provided* the finder or finders shall have conformed to the *rules* prescribed in this Regulation.—Reg. V, 1817, Sec. ii.

Whenever any person may find hidden Treasure, of the description stated in the foregoing Sec., he shall give *immediate notice* thereof, to the Judge of the Zillah or City, in which the Treasure may have been found, and shall at the same time *deposit* the Treasure in the Zillah or City Court, with an exact *inventory* thereof. —Reg. V, 1817, Sec. iii.

The Zillah or City Judge, receiving a *deposit* as above directed, shall return *a receipt* for the Treasure deposited, after causing the same to be carefully compared with the inventory, and shall issue a public *Notification* in the current languages of the Country, to be published and affixed in his own cutcherry, and in the cutcherry of the Collector of the district, requiring all persons who may have any claim of right to the treasure in deposit, to attend in person, or by vakeel, and *prove* their *title* thereto, *within six months* from the date of the notice.—Reg. V, 1817, Sec. iv.

It shall be the duty of the *Collectors* of Land Revenue, acting under the instructions of the Boards of Revenue, to bring forward and to support, in conformity with the foregoing provision, any *claim of right which Government* may appear to *possess* to such Treasure. In the event of any claim of right being preferred, either on the part of individuals or of Government, pursuant to the prescribed Notification, the Judge shall institute a *summary inquiry* into the claim preferred, and if the title of Government, or other person so claiming the Treasure in deposit, or any part thereof, be clearly established, he shall *adjudge* the same accordingly, subject to reimbursement of all *expense* incurred by the finder of the treasure, as well as to such *compensation* for the discovery of it, as may in such case appear just and reasonable —Reg. V, 1817, Sec. v.

If no claim of right be preferred, either by Govenment, or by an individual, within the period limited by the Notification directed in Sec. iv, or if the claim or claims so preferred shall not, on a summary inquiry, appear to be well founded, and the amount or value of the hidden Treasure found at the same time, or in the same place, shall *not exceed one lac of rupees*, the Zillah or City Judge shall *adjudge* the same to *the person* or persons *who* may have *discovered* the Treasure, and deposited it in the Zillah or City Court, as required by Sec. ii, subject only to the actual expense which may have been incurred

in adopting the measures prescribed by this Regulation.—Reg. V, 1817, Sec. vi.

If the amount or value of any hidden Treasure found at the same time, or in the same place, shall *exceed one lac of rupees*, and no claim of right thereto be established, Judgment shall be given according to the preceding Sec. in favour of the person or *persons who may have discovered and deposited* this Treasure, to the amount of *one lac of rupees*, and the *excess* above that sum shall be declared at the disposal of *Government*.—Reg. V, 1817, Sec. vii.

If any person discovering hidden Treasure of the description specified in Sec. ii, shall *not within one month*, after finding the same, *give notice* to the Judge of the Zillah or City Court, in conformity with Sec. iv, and make the *deposit* thereby required, he shall be considered to have *forfeited* all right and title to the Treasure, as well as claim to a reimbursement of expense, compensation or reward, under the provisions of this Regulation; and the *Treasure* so clandestinely *withheld* from public investigation shall, on a *summary suit* by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner, with interest and costs; or if no private claim be established, shall, on the application of the Vakeel of Government, under instructions from the Boards of Revenue, be liable to *confiscation* to Government.—Reg. V, 1817, Sec. viii.

The summary decision of the Judges of the Zillah and City Courts, which may be passed under this Regulation, shall be *open to a summary appeal* to the Sudder Dewanny Adawlut, *provided* that Court shall, on the face of the decree, or on inspection of any documents exhibited with it, see just and sufficient ground for admitting a second summary appeal to that Court; in which case only such further appeal may be admitted and proceeded upon under the general rules in force for summary appeals.—Reg. V, 1817, Secs. ix and x.

TRUST: *Breaches of. Public; Private.* See "Uncovenanted Judicial Officers" and "Zillah Courts."

Every person employed in the Public Service of Her Majesty, or of the East India Company, and intrusted by reason of such employment with the receipt, custody, or control of any chattel, money, or valuable security, *who shall embezzle* the same, or any part thereof, *or in any manner fraudulently apply*, use, or dispose of the same, or any part thereof, for any purpose, other than a purpose to which the same is applicable under the trust reposed in him, shall be deemed to have *feloniously stolen* the same.—Act XIII, 1850, Sec. i.

All Official Trustees, Assignees, and Receivers of money, by virtue of their several Offices or appointments, all Justices of the Peace, Coroners, and other

persons, receiving by virtue of their Offices or appointments, any fines, forfeitures, penalties, or other monies, on behalf of Her Majesty or of the East India Company, all Sheriffs, Under sheriffs, Bailiffs, Officers, and other persons employed to levy money, in execution of the judgment or order of any Court, or in *receiving any taxes or other monies* directed to be levied by any Regulation of the Governor-General in Council, or by any Act of the Governor-General of India in Council. and also *all subordinate* Officers and *servants employed in the Office* or service of any of the persons hereinbefore enumerated, and entrusted with money in the course of such employment, *are* declared to be persons employed *in the public service within the meaning of this Act;* but this *special enumeration* of some of the persons included in the general description of persons in the Public Service of Her Majesty or the East India Company, shall *not be taken to abridge the meaning* of that general description.—Act XIII, 1850, Sec. ii.

The *Clauses* respectively numbered 99, 100, 101, 102, 103, and 104 in an *Act of Parliament* passed in the ninth year of the reign of King George the Fourth, intituled "An Act for improving the administration of Criminal Justice in the East Indies," are *repealed*, except as to all things done or for bornetobe done before the passing of this Act.—Act XIII, 1850, Sec. iii.

Every *clerk* or servant who shall *steal any* chattel, money, or valuable security belonging to, or in the possession or power of his master, shall be punishable in the same manner as persons convicted of felonious stealing under this Act.—Act XIII, 1850, Sec. iv.

Every *clerk* or servant, or any person employed for the purpose, or in the capacity of a clerk or servant, who shall, by virtue of such employment, receive or take into his possession any chattel, money, or valuable security, for or in the name, or on the account of his master, and who shall *fraudulently embezzle* the same, or any part thereof, shall be deemed to have feloniously stolen the same from his master, although such chattel, money, or security was not received into the possession of his master, otherwise than by the actual possession of his clerk, servant, or other person so employed.—Act XIII, 1850, Sec. v.

Every member and officer of a trading *Corporation* or Company, and also every banker, merchant, factor, broker, attorney, or other *agent*, whether he be commonly so employed, or be employed as an agent in that instance only, and whether he act as such agent gratuitously or otherwise, to whom any chattel, money, or valuable security is intrusted for safe custody, or for any special purpose, and whether with or without any authority to sell, negotiate, pledge, or employ the same, but with an

authority limited to some defined purpose as to the application of such money, chattel, or valuable security, or of any part thereof, or of the proceeds or of any part of the proceeds thereof, who shall *fraudulently* apply, *use*, or *dispose or* the same, or any part of the proceed thereof for any purpose other than a purpose for which the same was intrusted to him, shall be deemed to have feloniously stolen the same.—Act XIII, 1850, Sec vi.

Every sub-agent, clerk, or servant of any such trading Corporation or Company, or of any banker, merchant, factor, broker, or other *agent* as aforesaid, who, knowing the purpose for which such chattel, money, or valuable security was intrusted to the corporation, Company, person or persons, by whom he is employed, shall fraudulently apply, use, or dispose of the same, for any purpose other than a purpose for which the same was intrusted to his employer or employers, shall be deemed to have feloniously stolen the same, though he were not himself immediately employed or intrusted with the disposition thereof by the person entitled thereto.—Act XIII, 1850, Sec. vii.

Every person possessed, or having the receipt, custody, or control of any chattel, money, or valuable security, *in trust for any other person or persons*, who shall *embezzle* the same or any part hereof, in any manner fraudulently apply, use, or *dispose* of the same, for his own use or benefit, in breach of the trust reposed in him, shall be deemed to have *feloniously stolen* the same.—Act XIII, 1850, Sec. viii.

Every person convicted of having feloniously stolen any chattel, money, or valuable security under this Act, shall be *liable to* be *transported* out of the territories under the Government of the East India Company *for life*, or *to be imprisoned with or without labour for any term not exceeding seven years*.—Act XIII, 1850, Sec. ix.

Any offender under this Act may be proceeded against on the same charge for any number of *distinct acts* of embezzlement or fraudulent application, use, or disposition, as aforesaid, committed by him *within six calendar months*, from the first to the last of such acts; and *proof of a gross deficiency in the accounts of any such trustee or public servant shall be evidence of the offence* charged, until such deficiency is otherwise explained.—Act XIII, 1850, Sec. xi

If the offence relates to money or to any Bank note, Bank post bill, banker's cheque, bill of exchange, promissory note, Government paper, or other like *security for the payment of money*, it shall be enough in the indictment, or charge to allege the embezzlement or fraudulent application, use, or disposition of money, *without specifying any particular coin or valuable security*; and such *allegation*

shall, so far as regards the kind of property, be *sustained*, if the offender is proved to have embezzled or fraudulently applied, used, or disposed of, any amount of money or any valuable security, though the particular kind of *coin* or valuable security, of which such amount was composed shall *not* be *proved*.—Act XIII, 1850, Sec. XII.

It shall *not be necessary*, in any proceeding against any offender under this Act, to declare the person to whom the property embezzled or fraudulently applied or disposed of belongs, otherwise than hereinafter provided, *or to give any other description* of *it than by stating its general character* according to the provisions of this Act; and if the offence be that of embezzlement, or fraudulent application, use, or disposition, by a person in *the public service of the Crown*, or *of the East India Company*, of property intrusted to him by reason of such employment, or part thereof, it shall be *enough* to state that the defendant was *in such service*, and that he received the property by reason of such employment, and embezzled the same, or part thereof, or fraudulently applied, used, or disposed of the same, as the case may be; and, if the case be one of fraudulent application, use, or disposition, by any person not being such public servant, but intrusted as aforesaid, it shall be enough to state that such person was intrusted with the property (describing its general character as aforesaid), and it shall be enough to state shortly, the purpose of the trust, and that he fraudulently applied, used, or disposed of the same, contrary to his duty on that behalf.—Act XIII, 1850, Sec. XIII.

The *Court* before which any offender is tried under this Act shall have power upon the trial to *make* any *amendments* that may be necessary, by reason of any variance between the statements of the *charge and the evidence*, either in the description of the property, or of any person, or of any office, appointment, or employment, or of the purpose of the trust or otherwise, when, in the opinion of the Court, the person charged cannot have been *misled as to his defence* by such imperfect or erroneous statement.—Act XIII, 1850, Sec. XIV.

Every offender under this Act may be tried and punished *by any Court* of competent jurisdiction, either in the place *where he is in custody, or where he committed* the offence.—Act XIII, 1850, Sec XV.

The *punishment* of any offender under this Act shall *not* be deemed to *take away* or *lessen his liability*, or the liability *of his sureties* to make good any loss sustained by Her Majesty or the East India Company, or any other person or persons, by his misbehaviour or breach of trust.—Act XIII, 1850, Sec. XVI.

Every person charged with

a felonious breach of trust under this Act, who shall be proved to have knowingly made up or furnished *false statements or accounts* of the sums of money received or paid by him, or intrusted to his care, or of the goods or balance of money in his custody or control, shall be *liable to fine in the discretion of the Court, although no actual embezzlement* or fraudulent application, use, or disposition of trusts moneys, chattels, or valuable securities, is proved against him; and *in addition to such fine* may be imprisoned, with or without hard labour, as the Court shall adjudge, for any term *not exceeding one year*; but *no person* convicted of felonious breach of trust as aforesaid, shall be *punished also* for making up *false accounts*, in connection with the same breach of trust.—Act XIII, 1850, Sec xvii.

UNCOVENANTED JUDICIAL OFFICERS, *Suspension, Removal* V ZILLAH COURTS.'

In the *removal of Sudder Ameen and Moonsiffs*, it shall *not* be *necessary*, in all cases to require full and *legal proof* of disqualification; but whenever a *Zillah* or *City Judge* shall have reason to *believe* that any Principal or other Sudder Ameen or Moonsiff within his Jurisdiction is disqualified by neglect of duty, incapacity, notorious corruption, or other gross *misconduct*, he shall state the grounds of his opinion to the *Commissioner* of Revenue and Circuit for the Division, and provided that Officer *concur* with him in opinion, they shall jointly submit a *report* thereof for the consideration and orders of the Governor-General in Council, if the report relates to a *Principal Sudder Ameen or Sudder Ameen*, or to the Sudder Dewanny Adawlut, if the report relates to *Moonsiff*, through the Secretary to Government in the Judicial Department, and it shall be competent to the Governor-General in Council, or Sudder Dewanny Adawlut, as the case may be, should they be of opinion that sufficient grounds exist, to direct the immediate removal of such principal, or Sudder Ameen, or Moonsiff, *provided*, however, that *no Principal or other Sudder Ameen or Moonsiff shall be removed* from Office *without the sanction of the Governor-General* in Council, *or* the *Sudder* Dewanny Adawlut.—Reg 1831, Sec. xxvi, cls. 1 and 2

Provided also, that it shall be competent to a *Judge* of a Zillah or City Court, whenever he may see *urgent necessity* for so doing, to *suspend* any *Principal Sudder Ameen, Sudder Ameen*, or *Moonsiff*, within his Jurisdiction, without any previous communication with the Commissioner of the division, and all cases in which the Commissioner of the Division may dissent from the Judge as to the propriety of removing any of the officers above named, it shall be competent to the *Judge* to submit his own

opinion to that effect to the Governor-General in Council, or the Court of Sudder Dewanny Adawlut, as the case may be; such report, however, to be accompanied by a *copy* of the *dissent which the Commissioner* may deem it necessary to record on the occasion. —Reg. V, 1831, Sec. xxvi, cl. 3.

Provided also, that it shall be competent to any Commissioner of Revenue and Circuit to *recommend*, on grounds assigned, the *removal* of any *Moonsiff, Sudder Ameen, or Principal Sudder Ameen;* but every such recommendation shall be previously submitted *through the Judge* of the Zillah or City, whose assent or dissent shall accompany the recommendation to the Court of Sudder Dewanny Adawlut, or the Governor-General in Council, as the case may be.—Reg. V, 1831, Sec. xxvi, cl. 4.

USURY; *New Law of—(V. "Interest,"* p. 89.)

Whereas it is expedient to *repeal the laws now in force relating to Usury:* It is enacted as follows:—Preamble.

Sec. xxx of the Act of Parliament, passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "An Act for establishing certain Regulations for the better management of the Affairs of the East India Company as well in India as in Europe," shall not apply in any part of the territories in the possession and under the Government of the said Company to any bond, contract, or assurance whatsoever, which shall be made or entered into within the said territories after the passing of this Act; and the several *parts of Regulations mentioned in the Schedule hereto annexed*, and *all Laws* in force in any part of the said territories *relating to Usury*, are hereby *repealed.*—Act XXVIII, of 1855, Sec. i.

In any suit in which interest is recoverable, the amount *shall be adjudged* or decreed by the Court *at the rate, (if any) agreed upon by the parties;* and *if no* rate shall have been *agreed* upon, *at such rate* as the *Court shall deem reasonable.*—Act XXVIII, of 1855, Sec. 2.

Whenever a Court shall direct that a Judgment or *decree* shall *bear interest*, or shall *award interest upon a judgment* or decree, it may order the interest to be calculated at the *rate allowed in the Judgment, or* decree upon the principal sum adjudged, or at such other rate as the *Court shall think fit.*—Act XXVIII, of 1855, Sec. 3.

A *Mortgage or* other contract for the loan of money, by which it is agreed that the use or *usufruct* of any property shall be allowed *in lieu of interest*, shall be *binding* upon the parties.—Act XXVIII, of 1855, Sec. iv.

Whenever, under the Regulations of the Bengal Code, a *deposit* may be made of the principal sum and interest due upon any *Mortgage* or conditional sale of land hereafter to be entered into, the amount of *interest*

to be deposited shall be at the *rate stipulated in the contract;* or *if no rate* has been *stipulated* and interest be payable under the terms of the contract, at the rate of *twelve per centum per annum. Provided* that, in the latter case, the amount deposited shall be subject to the decision of the Court, as to the rate at which interest shall be calculated.—Act XXVIII, of 1855, Sec. v.

In any case in which an *adjustment of accounts* may become necessary between the lender and the borrower of money upon any Mortgage, conditional sale of landed property, or other *contract* whatsoever, which may be entered into after the passing of this Act, *interest* shall be calculated *at the rate stipulated therein;* or, if *no rate* of interest shall have been *stipulated* and interest be payable under the terms of the contract, at such rate as the *Court shall deem reasonable.*—Act XXVIII, of 1855, Sec. vi.

Nothing hereinafter contained shall *prejudice* or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any Act done, or *contract entered into previously to* the passing of *this Act.*—Act XXVIII, of 1855, Sec. vii.

This Act shall commence and take effect from the 1st day of January 1856.—Act XXVIII, of 1855, Sec. viii.

SCHEDULE.

Secs. iv, vi, vii, viii, ix, x, and xi, Reg. XV, 1793, of the *Bengal* Code.

Secs. iii, v, vi, vii, viii, ix, and x, Reg. XXXIV, 1803, of the same Code.

Cl. 1, Sec. xxiii, Reg. VIII, 1805, of the same Code, so far as it extends the abovementioned Secs. of Reg, XXXIV, 1803 to *Zillahs therein referred to.*

Cls. 3, 4, 5, and 6, Sec. ix, Reg. XIV, 1805 of the same Code; and so much of Sec. xi, of the same Regulation as may be deemed to have extended to the Zillah of *Cuttack* any of the Clauses or Sections abovementioned or any Law relating to Usury.

Sec. ii, Reg. XVII, 1806 of the same Code, so far as it extends to the Province of *Benares,* subject to modifications, the above-mentioned Secs. of Reg. XV, 1793; and Secs. iv, and vi, of the same Regulation.

Secs. ii, iv, v, and vi, Reg. XXXIV, 1802, of the *Madras* Code, and Sec. viii, of the same Reg. so far as it may be deemed to limit the rate of interest to be allowed on mortgaged bonds.

Sec. xxii, Reg. IV, 1816 of the same Code.

Sec. xiv, Reg. V, 1816, of the same Code.

Sec. xv, Reg. VI, 1816 of the same Code.

Sec. xiii, Reg. VII, 1816 of the same Code.

So much of Sec. vii, Reg. II, 1825 of the same Code as limits the rate of interest to be allowed by the Courts on bonds

or other instruments which shall be entered into after the passing of this Act.

Secs. x, xi, and xii, Reg. V, 1827 of the *Bombay* Code.—

VACATIONS. *Civil Courts.*

The Zillah and City Civil Courts shall be annually adjourned during the *Hindoo* festival called *Dusserah*, which occurs in the Bengal month *Assin or Kartick*, corresponding with the English month *September or October;* and also during the *Mahomedan* festival *Mohurrem*, which depending on the *lunar year* is not fixed to any particular month. The former adjournment (or Dusserah vacation) shall commence *ten days before* this festival, and continue for the period of *one months of thirty days:* the latter adjournment (or Mohurrem vacation) shall commence *five days before* this festival, and continue for *fifteen days.* Under this rule, when the time of the *two festivals* may *coincide*, the *vacations* also will of course be *blended*, and no separate adjournment will be necessary: except as far as the fixed period for the one may extend beyond that of the other: as when part of the Mohurrem vacation only may fall within the period fixed for the Dusserah vacation; or on the other hand, when part of the latter only may fall within the period of the former. —Reg. III, 1798, Sec. ii

The Court of *Sudder* Dewanny Adawlut are authorized to *adjourn* that Court *during* the period of the *two vacations* above-mentioned, *or otherwise, as they may judge proper.*—Reg. III, 1798, Sec. iii.

The Court of *Sudder* Dewanny Adawlut are empowered to authorize and *direct an occasional dispensation with the rule for periodical vacations*, in the instance of any particular Court wherein, from the arrear of business or other cause, it may appear expedient that the vacations thereby provided for, or either of them, should not take place.—Reg. I, 1806, Sec. x.

ZILLAH COURTS; *Original; Chinsurah; Cossyah Hills; Garrows; Ramghur; General Rules; Leave of Judges; Contempts; Records; European and Law Officers; Borrowing. Lending. Native Ministerial Officers; Accountants.*

NOTE.—By Act XX, 1836, the Governor-General in Council is empowered to create new Zillahs and to alter the limits of existing Zillahs. Such changes, therefore, as are the subjects of the following Enactments will be no longer affected by Acts. It appears under these circumstances sufficient to present here a list of the Regulations which have heretofore effected *local creations and changes*, and the places to which they severally referred.

Zillah Courts were originally established for Bengal, Behar, and Orissa by Regulation III, 1793, and successively in the Province of Benares, and in the Ceded and Conquered Provinces, in the years 1795, 1803 and 1805. The Regulations

by which Zillahs were so established are given below, and references are added to Enactments enlarging and altering those arrangements.

Lower Provinces.—Original Zillah and City Courts.

Nuddea
Beerbhoom
Burdwan*
Midnapore
Twenty-four Pergunnahs†
Jessore
Moorshedabad‡
Boglepore
Rajeshahye
Purneah
Dinagepore
Rungpore
Cooch Behar
Sylhet
Dacca Jelalpore§
Mymensing
Tipperah
Chittagong
Behar Proper.
Shahabad
Sarun
Tirhoot
Ramghur.*

Cities.

Moorshedabad
Dacca
Patna.

—Reg III, 1793, Sec ii, cl. 1.

The town and settlement of *Chinsurah* shall be annexed to and included in the Zillah of *Hooghly*.—Reg. XVIII. 1825, Sec. ii, cl. 1.

The late *Dutch factories* at *Calcapore* and *Dacca*, and the lands appertaining to them, shall be annexed to the City Jurisdictions of Moorshedabad and Dacca respectively; those at *Fulta* and *Balasore* shall be annexed to the Zillah Jurisdictions of Twenty-four Pergunnahs and Cuttack respectively; and the late Dutch factory at *Patna*, and the lands appertaining to it, shall be annexed to the Jurisdiction of the City of Patna.—Reg. XVIII, 1825, Sec. ii, cl. 2.

Subject to the provisions contained in this Regulation, the *Rules* for the administration of *Civil and Criminal Justice* and the Police in *the Provinces* of

* Burdwan was divided into two Zillahs by Sec. vii, Reg. XXXVI, 1793.

† Zillah Twenty-four Pergunnahs was reconstructed by Reg. VII. 1806, and Reg. VIII, 1832, on the abolition of a Zillah denominated the "Suburbs of Calcutta," which had been created by Reg. XIV, 1814, afterwards rescinded. The following rule in Sec. viii. Reg. VII, 1806, is special:—"All complaints against the Collector of Customs at Calcutta, or his public Officers, or any other public Officer at the Presidency, which, by the Regulations in force, are cognizable in any Court of Zillah Dewanny Adawlut, shall be received, tried and determined, as prescribed in the Regulations, by the Judge of the Dewanny Adawlut of the Twenty-four pergunnahs, constituted in pursuance of the Regulations now enacted." (V. p. 43)

‡ Zillah Moorshedabad was abolished by Sec. ii, Reg. I, 1806.

§ The City Court of Dacca was abolished by Sec. ii, Reg. I, 1805; Zillah Dacca Jelalpore reconstructed by Reg. VII, 1797, (together with Zillah Bakergunge, still existing), was merged, with it, (Dacca,) into one Zillah, denominated Zillah Dacca, under Reg. V, 1833.

* Zillah Ramghur was abolished by Sec. ii, Reg. XIII, 1833.

Bengal, Behar, and Orissa, as well as those for the collection of the Land Revenue, Customs, Abkaree, and Stamp Revenues, and generally the whole of the Regulations in force for the internal administration of the provinces above mentioned (the special rules for Cuttack only excepted), *are declared to be in full force* and effect in the settlement and territories specified in the two preceding Secs. from the date of the promulgation of this Regulation (25th August, 1825).—Reg. XVIII, 1825, Sec. iii.

In all Civil Suits determined after the promulgation of this Regulation, the general rules in force for *Appeals*, will of course be applicable.—Reg. XVIII, 1825, Sec. iv, cl. 5.

The Civil Courts of Judicature are *prohibited from entertaining any claim* or suit which, from the production of a former decree, or from the records of Court, shall appear to have been *finally heard and determined by* any *former Judge*, or Superintendent of any Court of competent Jurisdiction. If any doubt should arise respecting the competency of the former Jurisdiction, the case shall be reported for the instructions of the Governor-General in Council, whose determination upon this point shall be conclusive.—Reg. XVIII. 1825, Sec. v.

All deeds of whatever determination, whether written on Stamp paper, or otherwise, that may have been regularly and *legally executed according to the Dutch Law, or* established *local usage*, previously to the promulgation of this Regulation, are hereby declared to be *valid*, and the several Courts of Civil Judicature are empowered and directed to admit such deeds in evidence; and in any Judicial proceedings that may be held on documents, the Courts are to be governed by the *Law and Usage* under which the same were prepared and executed.—Reg. XVIII, 1825, Sec. vi.

In the decision of all Civil suits, regarding succession, inheritance, marriage, and special contract, in which the parties may be *Europeans*, heretofore subject to the *Netherlands* authorities, or their descendants, and as well as generally in all cases where the parties may be Europeans, or Foreigners of any description, or their descendants, *the Courts shall be guided*, as far as practicable, by the spirit of the *rule prescribed in Sec. xv, Reg. IV*, 1793, which directs, that "in suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Mahomedan Laws with respect to Mahomedans, and the Hindoo Laws with regard to Hindoos, are to be considered the general rules by which the Judges are to form their decisions."—Reg. XVIII, 1825, Sec. vii.

An Officer, to be denominated "*the Dutch Law Officer or Fiscal*," shall be appointed by the Governor-General in Council, on the establishment of the

Judge of Zillah Hooghly; and it shall be his duty to expound the Laws and Usages of the Settlement of Chinsurah, and it's late dependencies, in all cases that may be submitted to him, either by the Civil or Criminal Courts.—Reg. XVIII, 1825, Sec. ix, cl. 1. (Note. *This office has ceased.)*

It shall be the further duty of the "*Fiscal*" to furnish *translations* of all papers filed in the Dutch language, and to interpret them truly to the respective Courts, as well as generally to perform such other duties as may be especially assigned to him by the local Judge or Magistrate.—Reg. XVIII, 1825, Sec. ix, cl. 2.

Provided always, that the particular *Law, Custom, or Usage*, which may have influenced the final Judgment of the Court, shall be specifically stated or referred to in the decree, sentence, or order affected thereby, and the *Fiscal's written opinion* shall remain attached to and be constantly kept with the record of the case.—Reg. XVIII, 1825, Sec. ix, cl 3.

The *Fiscal*, or Dutch Law Officer, shall moreover, by virtue of his Office, be deemed a *Sudder Ameen*, with the full powers invested in Judicial Officers of that description by Regs. II, and III, 1821, *within* the Town and Settlement of *Chinsurah;* in this capacity he shall be employed in the trial and decision of any suits or cases, Civil or Criminal, that may, under the General Regulations, be referred to him as Sudder Ameen, by the Zillah Judge or Magistrate respectively; and shall be governed in the trial and decision of such cases by the Rules and Regulations which are or may be in force for the guidance of Sudder Ameens.—Reg. XVIII, 1825, Sec. ix, cl. 4.

Cossyah Hills; Cachar. The functionaries who are or may be appointed to the political charge of the *Cossyah Hills*, or to the Superintendence of the territory of *Cachar*, are placed under the control and superintendence, *in Civil cases*, of the Court of *Sudder Dewanny* Adawlut, and in *Criminal* cases, of the Court of *Nizamut* Adawlut; and the Officers so appointed in the territory of Cachar are placed, in Revenue cases, under the control and superintendence of the Sudder Board of Revenue, and such control and superintendence of the Sudder Court and Board shall be exercised in conformity with such instructions as the said functionaries may have received, or may hereafter receive, from the Government of Fort William, in Bengal.—Act VI, 1835.

Garrow Hills. The tract of country now comprised in the Thannah *Jurisdictions* of Gwalpara, Dhoobree, and Kurreebaree, in the district of Rungpore, is hereby declared *separated* from the said district; and the operation of the rules for the administration of the Police, and of Civil and Criminal Justice, as well as those for

the Collection of the Land Revenue, Customs, Abkaree, and Stamp Revenues, together with all other rules contained in the *Regulations* printed and published in the manner prescribed by Reg. XLI, 1793, are *suspended*, and shall cease to have effect therein from the date of the promulgation of this Regulation, except in so far as may be hereinafter provided.—Reg. X, 1822, Sec. ii.

In the exercise of the duty of administering Civil Justice within the tract defined in Sec. ii, Reg. X, 1822, the Commissioner shall hold a Court, and proceed, in cases wherein persons *not* of the race of *Garrow* Mountaineers, or other rude tribes, are exclusively concerned, according to the existing Regulations, subject to the modifications provided for by this Regulation, observing as far as practicable the rules prescribed for Zillah Judges holding and presiding in the Adawluts of the country; *provided*, however, that there shall be no limit to the amount for which a suit shall be cognizable by the Commissioner, and an *appeal* from his judgment shall not lie to the Zillah Court. If the stake or interest involved (calculated according to the Rule contained in Article 8, Schedule B, Reg. X. 1829,) do not exceed in amount or value the sum of five thousand rupees, the decision passed on the case by the Commissioner shall be final. If the interest involved, calculated as above, exceed in value or amount the sum of five thousand rupees, an appeal shall lie in such cases direct to the Sudder Dewanny Adawlut, who will proceed in the hearing and adjudication thereof in the same manner as in the case of appeals entertained by the Court from Judgments of the Zillah Courts. The Sudder Dewanny Adawlut shall likewise be competent to grant a *special appeal* in cases of a less amount than five thousand rupees, should there appear, either on the face of the decree, or from circumstances established to the satisfaction of the Court, substantial reason for concluding that there has been a failure of Justice in the award of the Commissioners.—Reg. X, 1822, Sec. vi.

If the parties in a *Civil action* be *Garrow Mountaineers*, or of any other similar rude tribe, or if either of them be of that description, the *form and process* that may be sanctioned and *prescribed by the Governor-General* in Council shall be adopted in the trial and adjudication of the matter at issue, and in the execution of the award; and any Civil Judgment that may be passed according to such form shall have full authority and effect in the same manner as a decree passed by a competent Court of final Jurisdiction.—Reg. X, 1822, Sec. vii.

No suit or action shall be entertained by any Civil Court having Jurisdiction, or that may hereafter have Jurisdic-

tion, within the tract of country subject to the authority of the Commissioner, on account of any Act of the above description done under the authority of the Governor-General in Council —Reg. X, 1822, Sec. VIII, cl. 2.

Ramghur. The under mentioned tracts of country at present included in the districts of *Ramghur, Jungle Mehauls, and Midnapore,* shall be separated from those districts, and the operaration of the rules for the administration of Civil and Criminal Justice, as well as those for Collection of the Land Revenue, Customs, Abkaree, and Stamp Revenue, together with all other rules contained in the *Regulations* printed and published in the manner prescribed by Reg. XLI, 1793, is *suspended,* and shall cease to have effect therein from the date on which the Agent to the Governor-General may assume charge of the new Jurisdiction, except as hereinafter provided.

In the district of Ramghur—Chota Nagpore, Palamow, Kurruckdeea, Ramghur, Koonda.

In the district of Jungle Mehauls.—All the mehauls at present comprised in this district, except the following: Sampaharee, Sheeghur, Bishnpore.

In the district of Midnapore—Dhulbhoom, including Ghatssela.—Reg. XIII, 1833, Sec. III.

The administration of Civil and Criminal Justice, the Collection of Revenue, the Superintendence of the Police, of the Land Revenue, Customs, Abkarree, Stamps, and every branch of Government within the tracts of country separated as prescribed in the foregoing Sec., shall be vested in an officer appointed by the Governor-General in Council.—Reg XIII, 1833, Sec. IV.; and Act XX, 1854, Sec. I.

It shall be competent to the Governor-General, by an order in Council, to prescribe such *Rules* as he may deem proper for the guidance of the Agent and all the Officers subordinate to his control and authority; to determine what powers shall be exercised by the Agent and his Assistants respectively; also to determine to what extent the *decision* of the Agent in Civil suits shall be *final,* and in what suits an *appeal* shall lie to the *Sudder* Dewanny Adawlut, and to define the authority to be exercised by the Agent in Criminal trials, and what cases he shall submit for the decision of the Nizamut Adawlut —Reg. XIII, 1833, Sec V.

It shall be competent to the Governor-General, by an order in Council, to annex to any Zillah he may deem proper, that portion of the Ramghur and Jungle Mehaul districts which is not by this Regulation included in the Jurisdiction of the Agent to the Governor-General, and to make from time to time such *alterations in the limits of the District* placed under the Agent, or of any of the adjacent Zillahs, as he may deem expedient.—Reg. XIII, 1833, Sec. VII.

The duties prescribed by Sec. i, shall be vested in any officer whom the local Government shall from time to time appoint for that purpose, and such Officer, when appointed, and his Assistants respectively, may exercise within the tracts of country separated as prescribed in Secs. 3, 4, Reg. XIII, of 1833, all the powers which by the said Secs. the Agent to the Governor-General and Assistants respectively may exercise, and all the provisions in the said Secs. relating to the Agent to the Governor-General and his Assistants, shall be applicable to the Officer to be appointed as aforesaid, and his Assistants respectively.—Act XX, 1854, Sec. ii.

General Rules for Zillah Courts. The Zillah Courts of Dewanny Adawlut, or Courts of Judicature for the trial of Civil suits established in the several Zillahs and Cities, are to be *denominated* after the Zillah or the City in which they are respectively established.—Reg. III, 1793, Sec. ii.

It shall be lawful for the Governor-General in Council, by an order in Council, to create *new Zillahs* in any part of the Presidency of Fort William in Bengal, and to *alter* the *limits* of existing Zillahs.—Act XXI, 1836.

Leave of Absence. Any Zillah or City Judge, or any Magistrate who may be desirous of quitting his station, on whatever account, is to apply for *permission* to the Governor-General in Council; and except in emergent cases of indisposition, is *not to leave his station until such permission* shall have been obtained and received. The letter of application is to *specify the purpose* for which the leave of absence is applied for; the *period* for which it is desired; and the *name of the senior officer* on the spot, to whom the charge of the Office will devolve, if not otherwise provided for.—Reg. IV, 1796, Sec ii.

Previous, however, to any Zillah or City Judge, or any Sessions Judge or Magistrate, being permitted by Government to quit his station, a reference shall be made to the Sudder Dewanny and Nizamut Adawlut to ascertain *the state of the public business* depending before such Judge or Magistrate, and whether the leave of absence desired *can be conveniently granted or* otherwise.—Reg. II, 1801, Sec. xv.

The Governor-General in Council will determine, in every instance wherein he may grant leave of absence to the Judge or Magistrate to quit his station, whether to delegate the temporary execution of the duties of Judge or Magistrate to the Senior Officer on the spot, or to appoint any other person by a special commission thereto, or to *make other provision for carrying on such part of the business of the station,* Civil or Criminal, as cannot be postponed, according to the urgency and circumstances of the case. The result

of this determination will be immediately communicated to the Judge or Magistrate, and the person appointed to act for him; and notice of it is to be given at the same time to the Courts of Sudder Dewanny and Nizamut Adawlut.—Reg. IV, 1796, Sec. iii.

The Zillah or City Judges, or Magistrates, to whom leave of absence may be granted, are to *report* their *actual departure from their stations, as well as their return thereto,* to the Governor-General in Council, and the Courts of Sudder Dewanny and Nizamut Adawlut.—Reg. IV, 1796, Sec. iv. (V. Circular Orders. Thacker Spink and Co.'s. 1855, p. 167 to 171.)

Contempts. If any person shall be guilty of *contempt of Court in open Court,* or *of undue arrogations of the authority of the Court,* or of *illegal exertions of Judicial authority* in his own cause, the Court is immediately to punish the offender by *fining him* in a sum *not exceeding two hundred rupees,* and keeping him in custody until the fine shall be paid. The Courts are to regulate the amount of the fines which they may impose under this Sec., according to the situation and circumstances in life of the offenders.—Reg. IV, 1793, Sec. xxi.

All persons whatsoever, whether generally amenable to the Courts of the East India Company or otherwise, *using menacing gestures or expressions, or otherwise obstructing Justice in the presence* of any Zillah or City Judge, Magistrate, Joint Magistrate, or other Officer under a Magistrate empowered to try criminal cases, *or any superior or inferior Court, Civil or Criminal,* of the East India Company, shall be liable to *be fined by* the *authority* whose proceedings are *obstructed,* to any amount not exceeding *two hundred rupees, or in* case such fine be not paid, to be *imprisoned* for any period not exceeding *one month. Provided* that from the award of punishment in such cases an *appeal* shall lie, if *preferred within one month,* to the authority, Civil and Criminal, appointed by law to hear *appeals* in all other cases from the decisions of the officer by whom the fine was imposed; and *provided also,* that notwithstanding anything in this Act it shall be lawful to indict any person amenable to Her Majesty's Supreme Courts as for a *misdemeanor* in any of the cases aforesaid sustainable before this Act, if no proceeding shall have been had against the offender in the Court where the offence was committed, but not otherwise.—Act XXX, 1841, Sec. i.

Records. Two *native keepers of the records* shall be appointed to keep the Dewanny Adawlut and Foujdaree records in each Zillah and City Court, and in the Sudder Dewanny Adawlut and the Nizamut Adawlut.—Reg. XVIII, 1793, Sec. ii.

The Offices of keepers of the records are declared *not to* be *hereditary.*—Reg. XVIII, 1793, Sec. iii.

The keepers of the records are to keep a *Register*, in such languages as may be directed, of all the Dewanny and Foujdarry proceedings, documents, and other records belonging to the Courts to which they may respectively be attached, in a book, each *leaf of* which shall be *attested* by the official signature of the Judges and Magistrates of the Zillahs and Cities, and the Registers to the Sudder Dewanny Adawlut and the Nizamut Adawlut, and on the last leaf of which they shall specify in their own handwriting, the *number of pages* contained in the book.—Reg. XVIII, 1793, Sec. iv.

The *keepers of the records* are to *endorse* upon the back of every paper or document which they may enter in the Register, the number of the *page* in which it may be Registered, and the endorsement is to be *attested with the Official signature* of both or either of them.—Reg. XVIII, 1793, Sec. v.

It shall be the duty of the keepers of the records to see that the records of the Court are *not destroyed by insects, damp, or otherwise*, and that they are *not removed* without the orders of the Court.—Reg. XVIII, 1793, Sec. vi.

If any *records* entered in the Register shall be *destroyed* in consequence of the neglect or any omission of the keepers of the records, or if any such records shall *not be forthcoming*, and they shall not be able to give a satisfactory account of them, they shall be liable to *dismission* from their Offices.—Reg. XVIII, 1793, Sec. vii.

The keepers of the records are to be careful to attend to any *rules or orders* respecting the duties of their Office, that may be prescribed to them by any Regulation, and also to any directions that may be given to them by the Court to which they may be attached, or the Register thereof, for the better keeping, preserving, or registering the records.—Reg. XVIII, 1793, Sec. viii.

The Civil Courts established in the several Zillahs and Cities are *to keep a book in which* the *daily proceedings in each cause, and every order or act of the Court are to be minuted* in such language as may be directed, and attested with the signature of the Judge. The plaint, answer, reply, and rejoinder of the parties, and *every* deposition, exhibit, and *paper whatever*, read and filed in each cause, is to be *minuted* and *referred to* in this book, *by marks* or mumbers, *corresponding* to marks or numbers to be *endorsed* on each document when it may be read in the cause.—Reg. XVIII, 1793, Sec. ix.

The Judges of the Civil and Criminal Courts are enjoined to be careful that the Registers and Books of proceedings, prescribed in the foregoing rules, are *duly kept* as therein directed, and that due attention be paid to the rules for preserving the original records of their respective Courts.—Reg. V, 1798, Sec. xvi.

Lending and Borrowing. The Judges and Magistrates of the Zillah and City Courts, and the Sessions Courts, and their Assistants, or other Officers being Covenanted servants of the Company, and the Collectors of the Revenue and their Assistants, are *prohibited lending money*, directly or indirectly, to any proprietor or farmer of land, or dependent Talookdar, or under-farmer or Ryot, or their sureties, and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared *not recoverable* in any Court of Judicature.—Reg. XXXVIII, 1793, Sec. ii.

No person being a creditor of any Zillah or City Judge or Magistrate, of any Collector of the Land Revenue or Customs, or of any Agent for the provision of Salt or Opium, *shall be appointed to any Official situation* on the establishment of the person whose creditor he may be. It shall consequently be the duty of the Boards of Revenue, and of the Zillah and the Sudder Courts, on receiving the reports prescribed by the provisions of Regulation VIII, 1809, to satisfy themselves fully that the natives recommended to fill any vacancies on the establishment of the European officers acting under their control, respectively, are not the creditors of the latter. With this view, it will be the duty of the said Boards and Courts to make full inquiries on the subject, not only from the Officers from whom such reports may be received, but through such other channels as may be necessary to guard against any infringement or evasion of the provisions of the present Regulation.—Reg. XXI, 1814, Sec. ii.

The *rules* contained in the preceding Sec. for precluding the creditors of the Public Officers abovementioned from being employed on their public establishments are to be considered *equally applicable to the relatives and dependants of such creditors:* the former as well as the latter shall consequently be *equally precluded* from being employed on the establishments of any of the Public Officers above described.—Reg. XXI, 1814, Sec. iii.

Any native causing himself to be appointed to any Office in opposition to the provisions of the two preceding Secs., or in any way knowingly *accepting office in contravention* thereof, shall *forfeit* to Government a sum equal to *ten times the yearly salary* or allowances attached to the situation to which he may be appointed.—Reg. VII, 1823, Sec. vii.

All *Covenanted Civil Servants*, in whatever Department of the Public Service they may be employed, are *prohibited*, under pain of dismissal from Office, from *borrowing money from, or in* any way incurring *debt to any Native Officer under their authority*, or under the authority of any of their subordinate functionaries, *or* from or to the *known surety, agent, relation,*

connection, or dependant, of any such Native Officer, or from or to any person of whom such Native Officer may be known to be or to have been the servant, agent, surety, or dependent.—Reg. VII, 1823, Sec. ii, cl. 1.

In like manner and under the like penalty, *all Officers* of Government, being *Covenanted Civil Servants*, are *prohibited from borrowing* money *from*, or in any way *incurring debt to any* manager, guardian, executor, ameen, sezawul, gomashtah, farmer, motuwullee, or other *person, who may in any way be officially accountable to them*, or from or to the *known* surety, agent, relation, connection, or *dependent of such person*.—Reg. VII, 1823, Sec. ii, cl. 2.

All Judges of Zillah and City Courts, all Magistrates, Joint Magistrates, and Assistants to Magistrates, all Collectors and Deputy Collectors of the Land Revenue, all Assistants to such Collectors or other Officers exercising the powers of such Collector, are prohibited, under pain of dismissal from Office, from borrowing money, from, or in any way *incurring debt to any* Zemindar, Talookdar, ryot, or other *person possessing real property*, or residing in, or having a *commercial establishment* within the City, District, or Division to which their authority may extend.—Reg. VII, 1823, Sec. iii.

All persons are prohibited from lending money, or otherwise becoming in any way creditors *to* any officer of Government, being a *Covenanted Civil servant*, in contravention of the above rules: and any person lending money, or in any way becoming creditor to any such public Officer in breach of this prohibition, shall *forfeit to Government a sum equal to the amount* for which he shall have so illegally become creditor.—Reg. VII, 1823, Sec. iv.

If any *Covenanted servant*, who may be appointed to any Office, shall, at the time of such appointment, be *indebted to any person* with whom it would be illegal for him to contract a loan, while holding such Office, it shall be *incumbent* on such servant, before entering on the duties of the Office, *to make known the circumstance* to the Governor-General in Council; and *failing* to do so, he shall be subject to the *same penalty as if the debt* had been *contracted subsequently* to his being appointed to the said Office.—Reg. VII, 1823, Sec. vi.

Suits for the recovery of penalties incurred under this Regulation shall and *may be instituted under the special instructions* of the Governor-General in Council, and *shall be conducted* by such Officer as Government may nominate for that purpose; such suits shall be instituted in the Zillah Court of the Division within which the transaction may have taken place, or the lender may reside, or may possess real or personal property. *An appeal* shall lie

from Judgments passed in such cases, in like manner as from other Judgments passed in original suits, by the Zillah Courts; and the Judgments shall be enforced under the provisions of the Regulations for the execution of other decrees of the Civil Courts.—Reg. VII, 1823, Sec. viii.

Employment of Private Servants, on public duties, and vice-versa. The whole of the *Officers* of Government employed in the Judicial Department, *Civil* or *Criminal*, are *prohibited*, under penalty of *dismissal from Office*, from *employing*, directly or indirectly, their *private servants*, of whatever description, or any other persons, not being public Officers duly appointed or nominated in conformity with the rules in force relative to such appointments, *in* the discharge of any part of their *public duties*, or in the execution of any public duty in which the person so employed may not have been duly authorized to act —Reg. VIII, 1825, Sec. ii, cl. 1.

The whole of the *Judicial Officers* are in like manner, and under the same penalty, *prohibited from employing any of the public Officers* on their establishments, not being peons, or other inferior servants, in personal attendance upon a Judge, Magistrate, or other Officer of Government in the Judicial Department, *in* the performance of *any part of their private business*, or in the execution of any private trust relating to their personal concerns.—Reg. VIII, 1825, Sec. ii, cl. 2.

Power of Sudder to suspend. The *Sudder Court* is empowered to *suspend* from Office *any Judge* of a City or Zillah, *or* Sessions Court, or any Zillah or City *Magistrate* for *wilful disobedience, or neglect* of any process, rule, or order of the Court, or for a *false return* thereto, as well as in cases of disobedience, or neglect, or false return by a Zillah or City Magistrate to any process, rule, or order, of a Sessions Judge; and in the last-mentioned cases, the Sessions Judges are directed to report immediately such disobedience, neglect, or false return to the Sudder Nizamut Adawlut. Such suspension is to be *notified within ten days, with all papers and proceedings* relating thereto, for the determination of *the Governor-General* in Council. The Sudder Court is also authorized on receiving reports, as prescribed in the Regulations, of neglect or misconduct (other than corruption or extortion, for which special rules are established) of *any Ministerial Officers* of the Courts or Magistrates, who may be Covenanted servants of the Company, to make such inquiry as may be judged necessary in explanation of the circumstances stated, and if the case appear to require the notice of the Governor-General in Council, to report the same to him, with a copy of all proceedings and papers received on the subject of it, for such orders as

may be judged proper. The *Sudder Court* is directed *to report to the Governor-General* in Council *all instances of wilful neglect* of duty or aggravated misconduct by a Covenanted servant of the Company employed in any of the Civil or Criminal Courts, whether in a Judicial or Ministerial capacity; and whether such neglect or misconduct may have been reported to the Sudder Court, Zillah or City Court, or by a Sessions Judge or Magistrate, or may otherwise appear from the proceedings and papers before the Court. But if the case should appear to the Court to involve an *error of Judgment* only, or a slight default for which an *admonition* from the Court may be deemed a sufficient correction, the Sudder Court in the former case, is authorized to notice the error for the information and guidance of the party who may have committed it, or in the latter case, to advise him of his default, and to admonish him accordingly.—Reg. VI, 1793, Sec. xiii; Reg. II, 1801, Secs. vii and xiv.

Native Ministerial Officers. The Judges of the Civil and Criminal Courts are empowered to assign to all *Ministerial officers* attached to their several Courts, the *particular duties* or business to be performed by them respectively.—Reg. XIII, 1793, Sec. v.

Note.—The subject of the appointment and removal of Ministerial Officers is involved in much perplexity, as Reg. V, 1804, and Reg. VIII, 1809, have not been repealed, though the effect of subsequent enactments and the abolition of the Provincial Courts of Appeal and Circuit, have wrought such important changes in their operation that it is extremely difficult to show what portions of either of those Regulations are still in force.

Reg. V, 1804, treated conjointly of the Native Public Officers of the Judicial and the Revenue Departments. It virtually divided those Officers into *three classes*—the *first* consisting of those whom it termed "*Head Ministerial Officers,*" who were to be appointed and removed only under the authority of Government; and to this class were added the Law Officers and Kazis of towns; the *second,* of *Ministerial Officers of lower grade,* but receiving more than ten rupees a month, who were to be appointed and removed under the sanction ofthe Courts of Appeal and Circuit, or the Board of Revenue; the *third,* the inferior class, *receiving less than ten rupees* a month.

Reg. VIII, 1809, relieved the Government from the task of examining and approving the proceedings in the appointment and removal of all but the Law Officers, and it placed in the same category, as to appointment and removal, the Ministerial Officers of the Judicial and Revenue Departments, subjecting the proceedings of the Zillah Courts as well as those of the Magistrates, to the

supervision of the Provincial Court of Appeal and Circuit.

The suppression of the Provincial Courts of Appeal by Regs. V. 1831, and VII, 1832, and of the Courts of Circuit by Reg. VII, 1831, and Act VII, 1835, removed the intermediate authority between the Civil and the Sessions Courts of the Zillahs and the Sudder Courts, and there was no enactment transferring the control, before exercised by that intermediate authority, to the Sudder Courts. The matter was in truth so much one of merely official regulation, that it could not but be inconvenient that the details should be regulated by legislative enactment.

It appears that under the circumstances above stated, the Zillah Judges have been declared by the controlling authority of the Sudder Court competent to remove the Native Ministerial Officers and Vakeels, without reporting and obtaining the previous sanction of the Sudder Dewanny Adawlut. (See *Circular Orders of the Calcutta and Western Courts, March* 2,1832? Rescinded.) (V. Sec. x, Act XVIII, of 1852.) It would seem to follow by an almost necessary consequence that the Sessions Judge must be vested with an equally independent authority in respect of his Native Ministerial Officers.

In respect of the appointment and removal of the Ministerial and Police Officers subordinate to the Magistrates, it is declared by Sec. iv, Act XXIV, 1837, that the Superintendent of Police shall exercise the power. The Commissioners of Revenue are now Superintendents of Police.

The confirmation of appointments and resignations of the Officers of the Revenue Department appears still to be vested in the Revenue Boards.

Viewing the effects of the changes above referred to, it has seemed to be desirable to separate the rules which relate respectively to the Law Officers, the Ministerial Officers in the Judicial Department, and those in the Revenue Department.

Law Officers. The Cauzy-ool-Coozat and the Law Officers of the Sudder Dewanny Adawlut and Nizamut Adawlut are to be appointed by the Governor-General in Council, and shall not be removable but for incapacity or misconduct in the performance of their public duty or for any act of flagrant profligacy in their private conduct proved to his satisfaction.—Reg. XII, 1793, Sec. ii; Reg. VIII, 1808, Sec. iii; Reg. XXXIX, 1793, Sec. ii; Reg. XI, 1826, Sec. iii.

The Law Officers of the Sudder Dewanny Adawlut shall be the Law Officers of the Nizamut Adawlut.—Reg. XII, 1793, Sec. iv.

The Governor-General in Council shall appoint as many Law Officers to the Courts of Nizamut Adawlut as the state of business in each may appear to render requisite.—Reg. VI, 1832, Sec. vi.

The Law Offices in the several Courts are to be conferred on persons well versed in the Laws

and of unblemished character. —Reg. XII, 1793, Sec. iii.

Any person may be appointed to be a Hindoo or Mahomedan *Law Officer* in any of the Courts of Justice under the Presidency of Fort William in Bengal, who shall have *successfully passed through such an examination* as the Government of the said presidency shall from time to time prescribe.—Act V, 1845.

The *Law Officers* of the Zillah and City Courts are to be appointed by the Governor-General in Council. The *Sudder Court* is empowered to *confirm their removal and resignation*.—Reg. XII, 1793, Sec. ii; Reg. VIII, 1809, Sec. iv, cl. 1; Reg. XI, 1826, Sec. iv, cl. 1.

Whenever a *Law Officer* of any of the Courts of Justice shall be desirous of *resigning* his Office, the Judge shall receive such resignation *in open Court* and record the same.—Reg. V, 1804, Secs. v and x.

Whenever a Zillah or City Court may see *cause for the removal* of a Law Officer, on the ground of any misconduct or neglect of duty, experienced *incapacity*, or other disqualification, such Court shall *report* the circumstances of the case, with its opinion on the subject, *to the Sudder* Dewanny Adawlut, who will pass such order on the report so made as may appear to be proper, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.—Reg. VIII, 1809, Sec. iv, cl. 2.

In cases in which a Law Officer of any of the Courts of Justice may have been guilty of such gross misconduct as to *require his immediate suspension* from the exercise of his functions, the Judge is *empowered to* suspend him until his case shall have been finally disposed of.—Reg. V, 1804, Secs. vi, x, and xvii.

Whenever a Law Officer may be removed from his station, or *whenever a vacancy* may occur in the Office of Law Officer in any of the Courts of Justice from death, resignation, or otherwise, the *Judge* or Judges of the Court in which the removal or vacancy may have occurred, shall *nominate* for the approbation of the Governor-General in Council, *a person duly qualified* to succeed to the station so vacated, and shall at the same time report fully the past employments, character, qualifications and age of the proposed successor. The Governor-General in Council, on consideration of such report, or after calling for any further information that may appear necessary, will either confirm the person so nominated to fill the vacated office, or will issue orders for his examination, or appoint any other person whom he may deem better qualified for the office.—Reg XI, 1826, Sec. iv, cl. 2.

The *Cauzies* stationed in the cities, towns, or pergunnahs in the three provinces, shall *not* be *removable* from their offices,

except for *incapacity* or misconduct in the discharge of their public duty, or acts of *profligacy* in their private conduct.—Reg. XXXIX, 1793, Sec. iii, cl. 1.

The *rule* contained in *the preceding Clause* is *not to be construed to preclude* the Governor-General in Council from *abolishing* the office of Cauzy at any place where, from the number of Cauzies stationed in the district or other cause, the continuance of such an officer may appear to him unnecessary.—Reg. XXXIX, 1793, Sec. iii, cl. 2.

When the office of Cauzy in any pergunnah, city, or town, shall become *vacant*, the Judge of the Zillah or City Court, within whose jurisdiction the place may be situated, is immediately to *report* the vacancy to the Sudder Dewanny Adawlut, and recommend such person as may appear to him *best qualified* for the succession from his character and legal knowledge. The name of the person so recommended is to be communicated to the *head cauzy*, who, if he shall deem him *unqualified* for the office, either from want of legal knowledge or the badness of his private character, is to *report* the same in writing to the *Sudder* Dewanny Adawlut. If there shall appear to the head cauzy *no objection* to the appointment of the person who may be so recommended, he is to *report* accordingly *to the Sudder* Dewanny Adawlut. The person who may be appointed to the office shall be furnished with a *sunnud* of appointment, under the official seal of the head cauzy, in which the date of his appointment is to be specified.—Reg. XXXIX. 1793, Sec iv; and Reg. VIII, 1809, Sec. iv, cl. 2.

The office of Cauzy is declared *not* to be *hereditary*.—Reg. XXXIX, 1793, Sec. v.

The Zillah and City Courts are to report to the Sudder Dewanny Adawlut every instance in which it may appear to them that the cauzy of any Pergunnah, City, or Town, within their respective Jurisdictions is incapable, or in which it may be *proved to their satisfaction* that he has been *guilty of negligence or misconduct* in the discharge of his public duty, or of acts of profligacy in his private conduct.—Reg. XXXIX, 1793, Sec. vi, cl. 1; and Reg. VIII, 1809, Sec. iv, cl. 2.

It shall likewise be the duty of the *Head Cauzy to report to the Sudder* Dewanny Adawlut, in writing, *every instance* in which it may appear to him that the Cauzy of any City, Town, or Pergunnah is incapable, or in which such Cauzy may have been guilty of misconduct in the discharge of his public duty, or *acts of profligacy* in his private conduct.—Reg. XXXIX, 1793, Sec. vi, cl. 2; Reg. VIII, 1809, Sec. iv, cl. 2.

The Court of *Sudder* Dewanny Adawlut is empowered to *confirm* the *removal* and resignation of the *Cauzies of Cities, Towns, and Pergunnahs*, on receiving the reports prescribed.—Reg. VIII, 1809, Sec. iv, cl. 1.

Whenever a Zillah or *City Court may see cause for the removal* of a Cauzy, on the ground of any misconduct or neglect of duty, experienced incapacity, or other disqualification, such Court shall *report* the circumstances of the case *to the Sudder* Dewanny Adawlut, who will pass such order on the report so made as may appear to be proper, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.—Reg. VIII, 1809, Sec. iv, cl. 2.

Principal Native Ministerial Officers. The *Sudder Courts and the Zillah Courts* shall exercise the *power* of *appointing, removing* and accepting the resignation of the principal native ministerial Officers acting under them respectively, as well as any other native Officers on their respective establishments. —Reg. VIII, 1809, Sec. iii.

Whenever the Head Ministerial NativeOfficers of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, of the Zillah and City Courts, of the Courts of Sessions in the several Zillahs and Cities, including the Keepers of the Records, or any other native Officers of the Courts of Judicature, *whose salary or other allowance may amount to ten rupees per mensem* or upwards, shall be desirous of resigning their Offices, the above authorities are required to receive and record such *resignation in their public cutcherries;* and whenever the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut shall receive reports from the Zillah and City Courts, inclosing the resignations of their Native Ministerial Officers, they will pass such decision thereupon as they shall see fit.—Reg. V, 1804, Secs. v, viii, x, xv, and xvi; Reg. VIII, 1809, Sec. iii.

Whenever the authorities specified in the preceding Sec. may *see cause for the removal of* their Native Ministerial Officers, of the description of those above mentioned, on the ground of misconduct, incapacity, or otherwise, they shall *communicate to such Officer the grounds* upon which they consider him undeserving of continuance in his station, and call upon him to state what he may have to offer in *his defence.*—Reg. V, 1804, Sec. vi; Reg. VIII, 1809, Sec. iii.

It is declared that an *order of Government shall be sufficient* without a new Regulation, to *extend the above provisions* to any offices now subsisting, or which may be hereafter instituted in the Judicial Department.—Reg. V, 1804, Sec. xix.

All Ministerial Officers of the Courts of *Moonsiffs, Sudder Ameens, and Principal Sudder Ameens,* shall be *nominated* and appointed by *those Courts respectively,* subject to the general control of the Zillah and City Judges and Court of Sudder Dewanny Adawlut, within whose Jurisdiction the

said Courts may be situated.—Act XXV, 1837, Sec. xii.

The *Nazirs* of the several Courts of Judicature, Civil and Criminal, shall be allowed, as heretofore, to *appoint their own Naibs, and the mirdahs and peons,* or any similar descriptions of public servants employed under their immediate direction and control, and to fill up all vacancies which, from time to time, may occur in such appointments, *subject to the approbation of the Judges and Magistrates* superintending the Courts to which they are attached. They are to enter into a *penal obligation* in such sum as may be required by the Courts to which they are attached, for the good behaviour of the Naibs, mirdahs, and peons whom they may appoint. They *may* also, as hitherto, *remove* the person so appointed by them, *provided* they can state sufficient *cause* to the satisfaction of the Judge and Magistrate, but not without his previous knowledge and sanction.—Reg. XIII, 1793, Sec. ii; Reg. V, 1804, Sec. xii.

Nothing in Reg. VIII, 1809, shall be construed to *preclude the Governor-General* in Council, or the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, from *ordering the removal of a Native Officer,* upon just and sufficient ground appearing for such order. Nor is any part of that Regulation meant to prevent the exercise of the *general authority* vested in the Courts of *Sudder* Dewanny Adawlut and Nizamut Adawlut by the Regulations in force.—Reg. VIII, 1809, Sec. xiii.

Public Accountants. Every *public accountant* shall give *security* for the due discharge of the trust of his Office, and for the due account of all monies which shall come into his possession or control by reason of his Office.—Act XII, 1850, Sec. i.

In default of any Act having special reference to the Office of any public accountant, the security given shall be of such *amount* and kind, real or personal, or both, and with *such sureties* (regard being had to the nature of the Office), *as shall be required by any rules* made, or to be made from time to time, by the authority by which each public accountant is appointed to his Office, subject to the approval of the Governor or Governor in Council of the Presidency or place. —Act XII, 1850, Sec. ii.

Every person is a *public accountant within the meaning of this Act,* who, by reason of any Office held by him in the service of the East India Company, is intrusted with the receipt, custody, or control of any monies or securities for money, or the managenent of any lands belonging to the East India Company, or as Official assignee or trustee, or as surberakar, or in any other Official capacity, with the *receipt, custody, or control of any monies or securities* for money, *or the management of any Lands* belonging to any

other person or persons.—Act XII, 1850, Sec. iii.

The person or persons at the *head of the Office* to which any public accountant belongs, may *proceed* against any such public accountant, and his sureties, for any loss or defalcation in his accounts, *as if the amount thereof were an arrear of Land Revenue* due to Government.—Act XII, 1850, Sec. iv.

All Regulations and Acts now or hereafter to be in force for the recovery of arrears of Land Revenue due to Government, and for recovery of damages by any person wrongfully proceeded against for any such arrear, shall apply, with such changes in the forms of procedure as are necessary, to make them applicable to the case, to the proceedings against and by such public accountant. —Act XII, 1850, Sec. v.

All sales of estates, summarily sold before the passing of this Act, in satisfaction of the security bonds of any public accountants within the meaning of this Act, shall be deemed as good and valid, and be as liable to be reviewed and annulled as if such estates had been sold under authority of this Act, and no further, or otherwise.—Act XII, 1850, Sec. vi.

In cases of gross misconduct, neglect, or incapacity such as to require the *immediate suspension* of any native public officer of the Government, the officer under whose authority such native officer may be placed is authorized to order the same. He may also, in addition to the general powers vested in him by the Regulations for the punishment of any specific crime or misdemeanor, *fine* any such native officer under his authority for neglect of duty, in a *sum equal to one month's salary*, and cause the same to be levied by a *stoppage of the fixed allowance* payable to such Officer. And it is hereby declared, that *Native Officers of every denomination*, in the service of Government, will be *liable to removal from the public trusts* committed to them *without proof of any specific act of criminality, whenever* there may be sufficient reason to *believe* them *incapable* or neglectful of their prescribed duties, or in any respect *unworthy of public confidence*.—Reg. VIII, 1809, Sec. v, cl. 5. and Sec. ix.

Any future removals and appointments of the Native Officers described in this Regulation, and receiving an allowance *of ten rupees per mensem or upwards*, which may be sanctioned by the Governor-General in Council, or by the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, or the Board of Revenue, shall be *communicated to the Civil Auditor*, for the purpose of making the requisite alteration in the book of Civil Establishments.—Reg. V, 1804, Sec. xxi.

The several authorities and Officers referred to in this Regulation, who may hereafter have accounts to render to the Accountant-General, or to the Accountants in the Judicial and Revenue Departments or to the

Civil Auditor, which by the rules and orders now in force, or by such as may be passed in future, are or may be required to be accompanied with *detailed statements of the establishments* of Native Officers, shall uniformly insert in such statements the *names of the Native Officers actually employed*, and receiving an allowance of *ten rupees* per mensem, or upwards, as sanctioned by the Governor-General in Council or by the Sudder Dewanny Adawlut and Nizamut Adawlut or by the Board of Revenue, under the provisions contained in this Regulation.—Reg. V, 1804, Sec. xxii.

The several Officers of Government in the Judicial and Revenue Departments, and in the Department of Salt, Opium, and Customs, who are already restricted by their Official Oaths, or by the known declarations and orders of Government, from deriving any personal advantage whatever from their fixed establishments of Native Officers, are further hereby *positively prohibited from making any alteration whatever in the distribution of the salaries of such officers, or in the number and designation* of the several descriptions of native Officers, which now compose, or may hereafter compose, their authorized establishments, *without the express sanction* of the Governor-General in Council.—Reg. V, 1804, Sec. xxiii.

Nothing in the Regulations shall be construed to establish *a claim of inheritance to* any Public Office whatever, *or* to *prevent the abolition* of any such Office by order of the Governor-General in Council, whenever he may judge it unnecessary to continue the same for the public service.—Reg. V, 1804, Sec. xxiv.

Corruption &c. All *Native Ministerial Officers* of the Civil and Criminal Courts are *amenable to the Courts to which they are attached* for acts of *corruption* or *extortion*, and the Courts are empowered to receive any such charges that may be preferred against them, *provided* that before receiving such charge the *complainant* make an *oath* or declaration to the truth of it. *Security* shall not be demanded in the first instance for the prosecution of any such charges, but in the event of it appearing necessary at any time in the course of the inquiry, sufficient *hazirzaminy* security may be required from the prosecutor or accuser to attend and prosecute the charge to a conclusion.—Reg. XIII, 1793, Sec. ix, cl. 1; Reg. X, 1806, Sec. x.

The *Sudder Dewanny* and Nizamut Adawlut are *empowered to receive any charge of corruption or extortion against any Native Ministerial Officer* of a Zillah or Sessions Court, and to refer the charge for trial to the Court to which the accused is attached, *provided* that if the offence was committed in any suit or matter depending before the Court to which the

said Native Officer was attached, the complainant shall prove to the satisfaction of the Sudder Court that he preferred the suit in *the first instance to the Lower Court*, and that such Court refused or omitted to receive the charge.—Reg. XIII, 1793, Sec. IX, cls. 2 to 6.

Charges of corruption or extortion which may be preferred against the Native Ministerial Officers of any Civil and Criminal Court of Judicature are to be considered as *Civil actions*, to be prosecuted in the Civil Courts; but this provision, the principal object of which is to enable individuals who may be aggrieved by any of the Native Officers of Justice to obtain redress by an action in the Civil Courts, is *not meant to preclude a Criminal prosecution*, in cases of corruption, extortion, or embezzlement, which may appear to call for exemplary punishment.—Reg. XIII, 1793, Sec. IX, cl. 7; Reg. XVIII, 1817, Sec. VI, cl. 1

If a Native Ministerial Officer of any Civil or Criminal Court, who may be prosecuted for corruption or *extortion* under these rules, shall be *proved* to have received or taken the whole or any part of the money or property which he may be charged with having received or taken, the Court is to adjudge him to *refund* the amount or value of the money or property which he may be so proved to have so received or taken, and to *pay a fine of three times* the amount of it to Government. In enforcing the decision, the Court is to observe the rules prescribed for enforcing other decisions of the Court. If the Officer against whom such decree may be passed shall *not appeal* from it within the limited time, or if an appeal shall not lie from the decision, the Court is to transmit a *copy of the decree* to the Governor-General in Council. If an appeal shall lie from the decision, and such Officer shall prefer an appeal, and the decision shall be confirmed in appeal, the Court by which the final decision may be passed is to transmit a copy of it to the *Governor-General* in Council, who *reserves to himself the power of declaring such Officer incapable of serving Government in any capacity*. The *Courts may suspend a Native Officer* against whom a charge of corruption or extortion may be preferred until the final decision may be passed, if they shall see cause for so doing.—Reg. XIII, 1793, Sec. IX, cl. 8.

If any person shall prefer a charge of corruption or extortion against a Ministerial Officer of any Civil or Criminal Court of Judicature under these rules, and the *charge shall not be proved*, the accused is to have the *option of suing the accuser for damages* in any Court or Civil Judicature to which he may be amenable.—Reg. XIII, 1793, Sec. ix, cl. 12.

The foregoing rules are to be held *applicable to* charges of a

similar nature that may be preferred against the *Hindoo or Mahomedan Law Officers* of the several Courts, with the following qualifications.—Reg. XII, 1793, Sec. viii, cl. 1.

An *appeal* shall lie to the Sudder Dewanny Adawlut *from all decisions* which may be passed by the Zillah Courts, *whereby* a charge of *corruption* or extortion against any Law Officer *may be decreed not proved, or* by which any such charge may be adjudged *to be proved*, whatever may be the amount decreed to be paid, notwithstanding anything that may be said to the contrary in any Regulation passed on this date.—Reg. XII, 1793, Sec. viii, cl. 2.

No decree passed by any Zillah or City Court, adjudging a Hindoo or Mahomedan Law Officer guilty of corruption or extortion, shall be *carried into execution, in the event of the Law Officer* against whom such decree may be passed *appealing* from the decree, in cases of appeals from decisions for sums of money passed by those Courts respectively, and the execution of which they are empowered to *suspend upon such securities being given.*—Reg. XII, 1793, Sec. viii, cl. 3.

The Zillah and City Courts are to *enforce*, by the usual process, *all decrees* that they may pass adjudging their Law Officers guilty of corruption or extortion, which may *not be appealed* against within the limited time, and transmit copies of the decrees to the Governor-General in Council.—Reg. XII, 1823, Sec. viii, cl. 4.

The Sudder Dewanny Adawlut is to transmit to the Governor-General in Council a copy of every *decree* which they may pass, adjudging a *Law Officer* of any Civil or Criminal Court *guilty of corruption* or extortion, within *one week*, after it may be given.—Reg. XII, 1793, Sec. viii, cl. 6.

The *Governor-General* in Council, upon the receipt of any decree adjudging a Law Officer of a Civil or Criminal Court guilty of corruption or extortion, which may be transmitted to him under these rules, reserves to himself the *power of dismissing* the offender from his Office, or of both dismissing him from his Office, *and declaring him incapable* of exercising any employment under Government. The *Governor-General* in Council likewise reserves to himself the power of *suspending* any Law Officer against whom a charge of corruption or extortion may be preferred, *until* a *final decision* shall be passed on the charge, whenever it may appear to him expedient, either upon the representation of any of the Courts of Judicature, or in consequence of any other information which may come before him.—Reg. XII, 1793, Sec. viii, cl. 7.

When a *Zillah* or a City *Court* shall *adjudge* a charge of corruption or extortion that may have been preferred against any *Law Officer not to be*

proved, and the prosecutor shall not appeal from the decree within the limited time, the Court is to transmit *a copy of it to the Governor-General* in Council. The Sudder Dewanny Adawlut, within the above-mentioned period, are to transmit to the Governor-General in Council copies of all decrees which they may pass, whereby any charge or corruption or extortion that may have been preferred against any Law Officer may be adjudged not proved.—Reg. XII, 1793, Sec. viii, cl. 8.

Whenever a Law Officer, or Ministerial Native Officer, may not, by the result of a Civil action, have been subjected to the penalties for corruption or extortion provided for in the foregoing rules, and there may appear to be sufficient grounds for a *criminal prosecution* against any such Officer, on a charge of corruption, extortion, or embezzlement, he is hereby declared liable to a Criminal prosecution before the Zillah or City Magistrate and Sessions Court, as provided for in other cases of misdemeanor by the Regulations, and on conviction before a Sessions Court, or the Court of Nizamut Adawlut, he shall be subject to discretionary punishment, to the extent and under the provisions stated in Sec. clxx, with respect to native Officers convicted of making use of the public money intrusted to their care.—Reg. XVIII, 1817, Sec. vi, cl. 2.

Sec. iv, Reg. II, of 1813, directing a *report of convictions* and sentences to the Governor-General in Council, for the purpose of enabling him to determine whether the guilty persons should be declared *incapable of again serving Government*, shall also be considered *applicable* to any convictions and sentences under the present rules.—Reg. XVIII, 1817, Sec. vi, cl. 3.

The Regulations in force not containing any provision for a summary proceeding to inquire into and recover embezzlements of money, or other property paid into, or deposited in the Civil or Criminal Courts of Judicature, or received by the Nazir, Khazanchy, or other Native Officers of those Courts, in execution of decrees, or on account of deposit, or on any other account, in their official capacity; and it appearing expedient that provision should be made for this purpose as well as for compelling the Native Officers of the Civil and Criminal Courts to *deliver up any public accounts* which may have been kept and withheld by them; the following rules are enacted for this purpose.—Reg. XVIII, 1817, Sec. vii, cl. 1.

Whenever any Native Officer attached to a Civil or Criminal Court may be charged with having embezzled any money or other property paid into, or deposited in the Court to which he is attached, or received by him in his official capacity, in execution of a decree, or on account of a deposit, or on any other account whatever; or whenever the Judge or Judges

of a Civil or Criminal Court may have reason to *suspect* any such embezzlement on the part of a Native Officer attached to the Court, they shall *immediately institute a summary inquiry* to ascertain the truth of such charge or suspicion; and shall, at the same time, require the Native Officer accused or suspected to give *sufficient security* for his attendance during the inquiry. In the event of such security not being given, and of its being necessary to keep the Officer in custody pending the inquiry, it shall be competent to the Judge or Judges to order the same, and to keep the party in *custody of peons*, or to confine him in the *Jail of the Dewanny* Adawlut, until he shall give the required security, or his detention appear no longer necessary.—Reg. XVIII, 1817, Sec. vii, cl. 2.

When the summary inquiry has been completed, *if it be established* thereby that any money or other property has been embezzled by the person accused, or suspected in his official capacity, he shall be required to pay the same into Court within such time as may be limited for that purpose; and on his failure to comply with such requisition, it shall be *recoverable from him as well as from his surety*, if he have given security on account of the Office held by him, *by* the usual *process* of recovery *in execution* of Judgments of the Civil Courts.—Reg. XVIII, 1817, Sec. vii, cl. 3.

A similar mode of proceeding shall be observed when a Native Officer attached to any Civil or Criminal Court of Judicature may withhold any public accounts which it is his duty to prepare and furnish, and the Summary Judgment in such cases shall not only order the immediate delivery of the accounts withheld, but shall also impose such *fine* to Government as may appear just and proper, on consideration of all the circumstances of the case, and the situation of the party.—Reg. XVIII, 1817, Sec. vii, cl. 4.

Any person dissatisfied with the Judgment of a Zillah or City Court, given under the provisions of Secs. vii, Cl. 1 to 4, shall be at liberty to prefer a *summary appeal* thereupon, under the rules applicable to such appeals, to the Sudder Dewanny Adawlut; and provided sufficient *security* be given for performing the decree of the Sudder Dewanny Adawlut, on the appeal, the decision of the Zillah or City Court shall *not* be carried into *execution* till confirmed by the Sudder Dewanny Adawlut.—Reg. XVIII, 1817, Sec. vii, cls. 5 and 6.

Whenever any Native Ministerial Officer, of any Civil or Criminal Court, or any Hindoo or Mahomedan Law Officer, against whom an action may have been brought in the Civil Court to recover money or property, *extorted or corruptly taken*, shall be *proved* to have received or taken the whole, or any part of the money or pro-

perty which he may be charged with having received or taken, the Court is to adjudge him to *refund the amount of the money*, or value of the property, which he may be proved to have so received or taken, *with interest*, when it may be a case of money taken, at such rate not exceeding twelve per cent. per annum, as to the Court may appear equitable, and to pay *full costs* to the Plaintiff in the suit. The Court shall *not*, in such case, be competent to award any *fine* against the defendant.—Reg. III, 1827, Sec. iii.

Any Law Officer or Ministerial Native Officer, charged with corruption or extortion, against whom there may appear to be sufficient grounds for a Criminal prosecution, shall be liable to such prosecution as laid down in Cl. 2, Sec. vi, whether the Civil action provided for in Sec. iii, shall have been brought or not, and whatever, if brought, may have been its result.—Reg. III, 1827, Sec. iv.

It shall *not be necessary* for any party, from whom money or property may have been corruptly taken or extorted, *to institute a Civil action* for the recovery thereof: but on proof of the charge in a Criminal prosecution for those offences, a *certified copy of the conviction* by a Sessions Court, or the Nizamut Adawlut, shall be received as *sufficient authority for enforcing the refund* of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court, on the *Stamp paper* prescribed *for miscellaneous petitions*.—Reg. III, 1827, Sec. v.

Whenever it may be *established* by the process described in Sec. vii, Reg. XVIII, of 1817, that any Native Officer attached to a Civil or Criminal Court may have *embezzled* any money or other property duly paid into or deposited in the Court to which he is attached, or regularly received by him in his Official capacity, in execution of a decree, or on account of a deposit, or on any other account whatever, it shall be the duty of the European controlling authority to *refund* to the party or parties, whose property may have been so embezzled the amount or value of the embezzlement from the public treasury, in the first instance, *without reference to the solvency or otherwise of the defaulter or his surety*; the Government reserving to itself the right of adopting such measures for the recovery of the money so refunded as may be deemed expedient, with reference to the nature and circumstances of each case.—Reg. III, 1827, Sec. vi.

If a *native servant or dependant* of any Judge of a Civil or Criminal Court of Judicature, not being a public Officer attached to the Court, *shall extort or receive*, directly or indirectly, any money or other valuable consideration, under any pretence whatever, from any party or person, on account

of any suit to be instituted, or that may be depending or have been decided in the Court, he shall be *committed as for a contempt of Court, and* be punished by a *fine* equal to *treble* the sum of *money extorted* or received, *or* by *imprisonment* at the discretion of the Court; and the Judge is required to *discharge such servant* or dependant, and *never to employ him*, directly or indirectly, *in his public or private capacity. If* the offender shall *not appeal* against the decree within the limited time, or if an appeal shall not lie from the decision, or if the decision shall be confirmed in appeal, the Court by which the final decree may be passed shall transmit a *copy of it to the Governor-General* in Council, who, in addition to the penalties or punishments specified in the decree, will, if there shall appear to him grounds for so doing, declare the offender incapable of serving Government in any capacity.—Reg. XIII, 1793, Sec. xi.

If the *Darogah* of a Jurisdiction, or any Officer, under his authority, shall be guilty of corruption, extortion, or oppression, or commit any Act repugnant to this Regulation, the party injured is hereby permitted to prosecute him, *either criminally* before the Sessions Court, *or* for *damages in the Dewanny Adawlut*. The Judges of the above-mentioned Courts are required to take cognizance of all such prosecutions or suits as may be brought before them under this Regulation, and to pass such sentence or decree as may appear to them equitable, upon a consideration of the circumstances of the case.—Reg. XXII, 1793, Sec. xxii.

Whenever the local Government, or the Head Officer of a Department or Office under Government, shall be of opinion that there are *good grounds* for making a *public inquiry* into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of Office, by any Ministerial or Police Officer, subject to the Jurisdiction of the Courts of the East India Company, and subordinate to such Government, or employed in such Department or Office, as the case may be, *it shall be lawful* for such Government, or any such head Officer as aforesaid, to *prosecute* such Officer on the part of Government, in a Criminal Court, or to *nominate some person to conduct such prosecution;* and it shall also be lawful for such Government, or Head Officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a Criminal Court of any such charge as aforesaid, which may be brought by an aggrieved private party against any such Ministerial or Police Officer, and such prosecutions as aforesaid shall not be barred, or affected, by reason of the party prosecuted having ceased to to be in the service of Govern-

ment at the time at which the charge may be brought against him.—Act XXXII, 1852, Sec. i.

Provided always, that no Collector, Magistrate, nor Head of an Office in the Salt Abkarry, or Customs' department, under the grade of Commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the Court, Board, or Officer to whom he is immediately subordinate, to institute the same.—Act XXXII, 1852, Sec. ii.

No *Collector, Magistrate, Judge, or other Officer*, who may prosecute any Officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such Officer connected with such prosecution, nor any of his Deputies, Assistants, or subordinate Officers, *shall act as Judge* in any such prosecution.—Act XXXII, 1852, Sec. iii.

The *Ministerial Officers of the* Courts of the *Moonsiffs, Sudder Ameens, and Principal Sudder Ameens*, shall be *liable* to the *same penalties* for acts of corruption, extortion, or other misconduct, as the Ministerial Officers of the Zillah and City Courts are now liable under the General Regulations. —Reg. V, 1831, Sec. xxv, cl. 2; Act XXV, 1837, Sec xi.

Whenever the *Government* shall be *of opinion* that there are *good grounds for* making a formal and *public inquiry* into the truth of any *imputation of misbehaviour* by any person in the service of the East India Company, not removable from his Office without the sanction of the same Government, it shall cause the *substance of the imputations* to be drawn into *distinct articles of charge*, and shall *order a formal and public inquiry* to be made into the truth thereof.—Act XXXVII, 1850, Sec ii.

The *inquiry* may be *committed* either *to* the *Court*, Board, or other authority to which the person accused is subordinate, or to any other person *or persons, to be specially appointed*, by the Government, Commissioners for the purpose: *notice* of which Commission shall be given to the person accused *ten days at least before* the beginning of the inquiry.—Act XXXVII, 1850, Sec. iii.

When the Government shall think fit to conduct the *prosecution*, it shall nominate *some person to conduct* the same on its behalf.—Act XXXVII, 1850, Sec. iv.

When the charge shall be brought by an accuser, the Government shall require the *accusation* to be reduced to *writing*, and verified by the *Oath* or solemn affirmation of the accuser; and every person who shall wilfully and maliciously make any *false* accusation under this Act, upon such Oath or affirmation, shall be liable to the penalties of *perjury*: but this enactment shall not be construed to prevent the Government from institut-

ing any inquiry which it shall think fit, without such accusation on Oath or solemn affirmation as aforesaid.—Act XXXVII, 1850, Sec. v.

Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government, before appointing the Commission, shall require him to furnish *reasonable security* that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any *counter-charge* or action which may be afterwards brought against him for malicious prosecution, or perjury, or subornation of perjury, as the case may be.—Act XXXVII, 1850, Sec. vi.

At any *subsequent stage* of the proceedings the *Government may*, if it think fit, *abandon the prosecution*, and in such case may, if it think fit, on the *application* of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.—Act XXXVII, 1850, Sec. vii.

The Commissioners shall have the same *power of punishing contempts* and obstructions to their proceedings as is given to Civil and Criminal Courts by Act XXX, 1841; and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the *Commission*, and shall be entitled to the same protection as the Zillah and City Judges, except that *all process* to cause the attendance of witnesses, or other compulsory process, shall be *served through* and executed by the *Zillah or City Judge* in whose Jurisdiction the witness or other person resides, on whom the process is to be served; and if he resides within Calcutta, Madras, or Bombay, then through the Supreme Court of Judicature there. When the Commission has been issued to a Court, or other person or persons having power to issue such *process in the exercise of their ordinary authority*, they may also use all such power for the purposes of the Commission.—Act XXXVII, 1850, Sec. viii.

All persons *disobeying* any lawful process issued as aforesaid for the purposes of the commission shall be *liable to the same penalties* as if the same had issued originally from the Court or other authority through whom it is executed.—Act XXXVII, 1850, Sec. ix.

A copy of the *articles of charge*, and list of the *documents and witnesses* by which each charge is to be sustained, shall be delivered to the person *accused*, at least *three days before* the beginning of the inquiry, exclusive of the day of delivery and the first day of the inquiry.—Act XXXVII, 1850, Sec. x.

At the beginning of the inquiry, the prosecutor shall exhibit the articles of charge to

the Commissioners, which shall be openly read, and the person accused shall thereupon be required to plead "*guilty*" or "*not guilty*" to each of them, which pleas shall be forthwith recorded, with the articles of charge. If the person accused refuses, or without reasonable cause *neglects to appear to answer* the charge, either personally or by his Counsel or Agent, he shall be *taken to admit* the truth of the articles of charge.—Act XXXVII, 1850, Sec. xi.

The *prosecutor* shall then be entitled to *address the Commissioners* in explanation of the articles of charge, and of the evidence by which they are to be proved; his address shall not be recorded.—Act XXXVII, 1850, Sec. xii.

The oral and documentary evidence for the prosecution shall then be exhibited; the witness shall be *examined* by, or on behalf of the *prosecutor*, and may be *cross-examined* by, or on behalf of the person accused. The *prosecutor* shall be entitled to *re-examine* the witnesses on any points on which they have been cross-examined, but *not on any new matter*, without leave of the Commissioners, who also may put such questions as they think fit.—Act XXXVII, 1850, Sec. xiii.

If it shall appear necessary before the close of the case for the prosecution, the Commissioners may, in their discretion, allow the *prosecutor to exhibit evidence not included* in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, *an adjournment* of the proceedings for three clear days, before the exhibition of such new evidence, exclusive of the day of adjourment and of the day to which the proceedings are adjourned.—Act XXXVII, 1850, Sec xiv.

When *the case* for the prosecution is *closed*, the person accused shall be required to make his *defence*, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a *copy* shall be given at the same time to the *prosecutor*.—Act XXXVII, 1850, Sec. xv.

The *evidence* for the defence shall then be exhibited, and the witnesses examined, who shall be liable to *cross-examination and re-examination*, and to examination by the Commissioners, according to the like rules as the witnesses for the prosecution.—Act XXXVII, 1850, Sec. xvi.

All witnesses, either for the prosecution or defence shall be examined on Oath, or, if exempt from taking an Oath in Courts of Justice, on solemn affirmation, to be administered in either case by one of the Commissioners; and every witness so examined and *wilfully giving false evidence* on any material point, shall be deemed guilty of and liable to the penalties of *Perjury*.

When the prosecution is not conducted on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.—Act XXXVII, 1850, Sec. xvii.

The *Commissioners* or some person appointed by them, shall *take notes in English* of all the oral evidence, which shall be *read aloud to each witness* by whom the same was given, and, if necessary, explained to him in the language in which it was given, and shall be recorded with the proceedings.—Act XXXVII, 1850, Sec. xviii.

If the person accused makes only an *oral defence*, and exhibit *no evidence*, the *inquiry* shall *end* with his defence; *if* he records a *written defence*, or exhibits evidence, the *prosecutor* shall be *entitled to a general oral reply on* the whole case, and may also *exhibit evidence* to contradict any evidence exhibited for the defence, in which case the person accused shall *not* be *entitled to any adjournment of* the proceedings, although such new evidence were not included in the list furnished to him.—Act XXXVII, 1850, Sec. xix.

When the Commissioners shall be of opinion that the *articles of charge*, or any of them, are *not drawn* with sufficient *clearness and precision*, the Commissioners may, in their discretion, require the same to be *amended*, and may thereupon, on the application of the person accused, adjourn the inquiry for a *reasonable time*. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness, or other reasonable cause. When such application is made and refused, the Commissioners shall record the application, and their reasons for refusing to comply with it. —Act XXXVII, 1850, Sec. xx.

After the close of the inquiry the *Commissioners shall forthwith report* to Government their proceedings under the Commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations as they think fit on the whole case.—Act XXXVII, 1850, Sec. xxi.

The Government, on consideration of the report of the Commissioners, may order them to take *further evidence*, or give further explanation of their opinions. It may also order *additional articles* of charge to be framed, in which case the inquiry into the truth of such additional arricles shall be made in the same manner as is herein directed with respect to the original charges. When Special Commissioners have been appointed, the *Government may also, if it thinks fit, refer the report of the Commissioners* to the Court, or other authority to which the person accused is subordinate, for their opinion on the case; and will finally

pass such orders thereon as appear just and consistent with its powers in such cases.—Act XXXVII, 1850, Sec. xxii.

The word "*Government*" as used in this Act, *means* the Governor-General in Council, the Governor or Deputy-Governor of the Presidency of Fort William in Bengal, the Governor in Council of the presidencies of Fort St. George and Bombay respectively, and the Lieutenant-Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the *removal of the person accused* —Act XXXVII, 1850, Sec. xxiii.

Nothing in this Act shall be *construed to repeal any Act* or Regulation in force for the *suspension or dismissal* of Principal and other Sudder Ameens, or of Deputy-Magistrates or Deputy-Collectors, but a Commission may be issued for the trial of any charge against any of the said Officers, under this Act, in any case in which the Government shall think it expedient.—Act XXXVII, 1850, Sec. xxiv.

Nothing in this Act shall be construed to *affect the authority of Government* for suspending or *removing any public servant, for any cause, without an inquiry*, under this Act.—Act XXXVII, 1850, Sec. xxv.

All *public Officers* shall take and subscribe the prescribed *Oaths of Office* before such person as the Governor-General in Council may Commission to administer them.—Reg. II, 1793, Sec. iii; Reg. V, 1804, Sec. xxv; Reg. iii, 1829, Sec. iii.

It shall be lawful for the Governor-General in Council to *dispense* with any *Oath* which by any Regulation, or by any Act of the Governor-General of India in Council is now required to be taken, and it shall be lawful for the Lieutenant-Governor of the North-West Provinces to dispense with any Oath, which by any Regulation or any Act of the Governor-General of India in Council now in force within those Provinces is now *required to be taken*.—Act XXI, 1837, Sec. i.

Provided always that the *dispensing power* given by this Act shall *not extend* to any Oath now required by Law to be taken in any stage of any *Judicial proceeding*.—Act XXI, 1837, Sec. ii.

Whenever any *Oath* is *dispensed with* under the authority giving by this Act, the person who, but for such dispensation, would have been legally required to take such Oath, shall, in the presence of the functionary by whom, but for such dispensation, such Oath would have been administered, make and subscribe a *declaration* in writing to *the same effect with such Oath*.—Act XXI, 1837, Sec. iii.

Whoever shall, in any declaration made and subscribed according to the provisions of this Act, knowingly state any untruth, such that *if that untruth had been stated on Oath*, the person stating it

would have been guilty of *perjury*, shall be punished with *imprisonment for a term not exceeding one year, or fine or both.*—Act XXI, 1837, Sec. iv.

Such parts of the Regulations in force as direct that the Law Officers, or *Ministerial Native Officers* of the Courts of Judicature, Civil or Criminal, or any other Native Officers employed in the Judicial or Revenue Departments, or in any public office whatever, shall take and subscribe an Oath, previously to their entering upon the discharge of the duties of the Office to which they may be respectively appointed, or which in like manner *prescribe an Oath of Office* to be taken by the Moonsiffs and Sudder Ameens, and by the Native Pleaders attached to the Civil Courts, are *declared* subject to the following *modifications.*—Reg. XVIII, 1817, Sec. ii. cl. 1.

Instead of the prescribed Oath, which is required by the Regulations in force, the several Native Officers referred to in the above clause shall hereafter make and *subscribe, in open Court*, or in the established public Office, before the Judges, Boards, Collectors, and Agents, or other European authorities to which they may be respectively subject, *a solemn declaration* to the same effect, with the form of Oath heretofore prescribed, except that the word "*declare*" shall be substituted for "*swear*;" and that the *declarer* shall *not be sworn* thereto.—Reg. XVIII, 1817, Sec. ii. cl. 2.

The Judges, Boards, Collectors or other European *Officers before whom* such declarations are required to be *made* and subscribed, shall *attest* the same as publicly read and subscribed before them, in pursuance of the above clause, and shall be careful to enforce a due observance of the rule therein contained by the Native Officers appointed to Act under them respectively.—Reg. XVIII, 1817, Sec. ii, cl. 3.

The Serishtadars, or other *Head Native Officers, Moonshees, Mohurrers*, and *Nazir* of the *Civil* and Criminal Courts, previous to entering upon the execution of the duties of their Offices, are to take and subscribe the following *Oath or Declaration* in *open Court*, before the Judge or Judges of the Court to which they may be attached:

"I, A B., appointed to the Office of Serishtadar (or other Head Officer, or Moonshee, Mohurrer or Nazir) to the Sudder Dewanny Adawlut or the Nizamut Adawlut, or the Dewanny Adawlut or Sessions Court of the Zillah or City of), solemnly swear (or declare) that I will *truly* and *faithfully perform the duties* of the Office to which I have been nominated to the best of my knowledge and ability; that I will *not receive*, directly or indirectly, any present or *Nuzzer*, in money or effects of any kind, *from any party* whomsoever,

on account of any suit to be instituted, or which may be depending or have been decided in the Court; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or Nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the Court; and that I will *not derive, directly or indirectly, any advantages* or emoluments from my Office, excepting such as the orders of Government do, or may authorize me to receive."—Reg. XIII, 1793, Sec. iv.

With the modification contained in Sec. ii, Reg, XVIII, of 1817, the rules in force, which require that certain Native Officers attached to the Civil and Criminal Courts of Judicature, and to other public Offices, shall take and subscribe an Oath, solemnly engaging to perform the duties of the Office committed to them faithfully and uprightly, according to the Regulations, are hereby declared to *extend to the Native Record-keepers and Tahseeldars, or Native Treasurers* of the Civil and Criminal Courts, though not specially named in the preceding Sec. as well *as to all other Native Officers* of Government *holding any situation of trust and responsibility* in the public service.—Reg. XVIII, 1817, Sec iii.

FINIS.

APPENDIX

Referred to in the Preface.

ADMINISTRATION—*Mortgage.*

WHEREAS it is expedient that the Law, under which the real and personal assets of deceased persons subject to the *English Law* are administered, should be amended: It is enacted as follows:—

After this Act shall have come into operation, if any person shall die seised of, or entitled to any estate or *interest in any land* or other hereditaments within the Territories in the possession of, and under the Government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the *heir* or devisee to whom such land or hereditaments shall descend or be devised *shall not be entitled* to have the *mortgage-debt discharged* or satisfied out of the *personal estate* or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof. Provided always that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise. Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed or document already made, or to be made, before this Act shall have come into operation.—*Sec. I. Act XXIII. of* 1855.

COMPENSATION—*for death by wrong.*

WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him: It is enacted as follows:—

Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of a person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent, child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator or Representative of the person deceased; and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.—*Sec. I. Act XIII. of* 1855.

Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint, and that every such action shall be brought within 12 calendar months after the death of such deceased person: provided that, in any such action or suit the Executor, Administrator or Representative of the deceased may insert a claim for, and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.—*Sec. II. Act XIII. of* 1855.

The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.—*Sec. III. Act XIII. of* 1855.

The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.—*Sec. IV. Act XIII. of* 1855.

EVIDENCE.—*Acts; Books; advisers, &c.*

WHEREAS it is expedient further to *improve the Law of Evidence*: It is enacted as follows:—

Act No. X. of 1835 is hereby repealed.—*Sec. I. Act II. of* 1855.

Within the territories in the possession and under the Government of the East India Company, all Courts of Justice and all persons having by law or consent of parties authority to take evidence shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April 1834 by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of Law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made, by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, whether the same be of a public or of a private nature.—*Sec. II. Act II. of* 1855.

All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *primâ facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.—*Sec. III. Act II. of* 1855.

Every Court shall take judicial notice of its own Members and Officers respectively, and of their deputies and subordinate Officers or Assistants, and also of all Officers acting in execution of its process, and of all Advocates, Attorneys, Proctors, Vakeels,

Pleaders, and other persons authorized by Law to act before it.—*Sec. IV. Act. II. of* 1855.

All Courts and persons aforesaid shall take judicial notice of the names, *titles*, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories :—Governor General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.—*Sec. V. Act II. of* 1855.

All such Courts and persons aforesaid shall take judicial notice of all divisions of *time*, of the geographical divisions of the *world*, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title and national flag of every Sovereign or State recognized by the British Crown. In all the above cases, such Court or person may resort for its aid to appropriate books or documents of reference.—*Sec. VI. Act II. of* 1855.

Any *Government Gazette* of any Country, Colony, or dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.—*Sec. VII. Act II. of* 1855.

All Proclamations, *Acts* of State, whether Legislative or Executive, nominations, appointments, and other official communications of the Government appearing in any such *Gazette*, may be proved by the production of such *Gazette*, and shall be *primâ facie* proof of any fact of a public nature which they were intended to notify.—*Sec. II. Act VIII. of* 1855.

Any recital contained in any Act of the Governer General of India in Council, constituted for the purpose of making Laws and Regulations hereafter to be passed of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *primâ facie* evidence of the truth of the fact recited.—*Sec. IX. Act II. of* 1855.

The *Gazette* or Newspaper containing any advertisement, purporting to be published by virtue of any public Statute, Act, Regulation or Ordinance, or of any Rule or Order of a Court of Justice, or of any Board or Officer of Revenue, may be received by any such Courts or persons as afore-

said as *primâ facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.—*Sec. X. Act II. of* 1855.

All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or persons shall consider to be of authority on the subject to which they relate.—*Sec. XI. Act II. of* 1855.

Books printed or published under the authority of the Government of a Foreign Country, and purporting to contain the Statutes, Code, or other written Law of such Country, and also printed and published Books of reports of decisions of the Courts of such Country, and Books proved to be commonly admitted in such Courts as evidence of the Law of such Country, shall be admissible before any such Courts or persons as aforesaid as evidence of the Law of such Foreign Country.—*Sec. XII. Act II. of* 1855.

All Maps made under the authority of Government or of any public municipal body, and not made for the purpose of any litigated question, shall *primâ facie* be deemed to be correct, and shall be admitted in evidence without further proof.—*Sec. XIII. Act II. of* 1855.

The following persons only shall be incompetent to testify :—

1. Children under seven years of age who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly ; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.—*Sec. XIV. Act II. of* 1855.

Any person who, by reason of *immature age* or want of *religious belief*, or who, by reason of defect of religious belief, ought not, in the opinion of such Court or person, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.—*Sec. XV. Act II. of* 1855.

The provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing as well as to testimony orally delivered.—*Sec. XVI. Act. II. of* 1855.

Any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he had been sworn and had committed wilful and currupt perjury. The indictment or charge shall be varied so as to meet the case. —*Sec. XVII. Act II. of* 1855.

No person shall, by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.—*Sec. XVIII. Act II. of* 1855.

Any party to a civil suit or other proceeding of a civil nature shall be competent and may be compelled to give evidence as a witness therein, either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Courts of Judicature, shall compel the attendance of any party to such suit or proceeding, for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act XIX. of 1853.—*Sec. XIX. Act II. of* 1855.

A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.—*Sec. XX. Act II. of* 1855.

A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.—*Sec. XXI. Act II. of* 1855.

A witness being a party to the suit shall not be bound to produce any document in his possession or power, which is not relevant or material to the case of the party requiring its production, nor any confidential writing or correspondence which may have passed between him and any legal professional adviser. If any party however offer himself as a witness, he shall be bound to produce any such writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its pro-

duction.—*Sec. XXII. Act II. of* 1855.

Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to bring it, or cause it to be brought into Court, although there be a valid objection to the right of the party calling for it to compel its production, or to the reading or putting it in as evidence, or to the disclosure of the contents thereof, the validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof, except to the Court, unless the Court shall order the document to be given in evidence.—*Sec. XXIII. Act II. of* 1855.

A Barrister, Attorney, or Vakeel shall not, without the content of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client, and the Barrister, Attorney, or Vakeel shall be bound upon examination to disclose any such matter.—*Sec XXIV. Act II. of* 1855.

Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.—*Sec. XXV. Act II of* 1855.

Any person, whether a party to the suit or not, may be summoned to produce a document

without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.—*Sec. XXVI. Act II. of* 1855.

The Rules of evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil Jurisdiction, shall be the same as they are on the Plea side of the said Courts.—*Sec. XXVII. Act II. of* 1855.

Except in cases of treason, the direct evidence of one witness, who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.—*Sec. XXVIII. Act II. of* 1855.

Where *dying declarations* are evidence, they shall be received if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger of approaching death, though he entertained at the time of making it hope of recovery.—*Sec. XXIX. Act II. of* 1855.

The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.—*Sec. XXX. Act II. of* 1855.

In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a *copy of any deposition* or statement taken before any Court, Judge, Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the Suppression of Thuggee or Dacoity in the discharge of his duty shall, if certified by such Court, Judge or other Officer above-mentioned, under his hand or the official seal of the Court, or under the hand or official seal of such Judge, to be a true copy of such deposition or statement, without further proof, be received as *primâ facie* evidence that such deposition or statement was made and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.—*Sec. XXXI. Act II. of* 1855.

A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind. Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.—*Sec. XXXII. Act II. of* 1855.

A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.—*Sec. XXXIII. Act II. of* 1855.

A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject-matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him. Provided always, that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.—*Sec. XXXIV. Act II. of* 1855.

An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.—*See. XXXV. Act II. of* 1855.

When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.—*Sec. XXXVI. Act II. of* 1855.

An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.—*Sec. XXXVII. Act II. of* 1855.

The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *primâ facie* proof of such execution of it, though it be an instrument which is required

by law to be attested.—*Sec. XXXVIII. Act II. of* 1855.

Any entry or statement, which would be admissible in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bonâ fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.—*Sec. XXXIX. Act II. of* 1855.

Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number or otherwise any Bank Notes or other Securities for the payment of money, or other property, and the payer in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to have been made at or about the time of the transaction to which it relates, though the person who made it or he on whose information it, was made, is alive and capable of being produced as a witness.—*Sec. XL. Act II. of* 1855.

Any receipt in writing, acknowledging the receipt of any money, valuable securities or goods, shall, on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it but also against any person in whose favor such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money, security or goods acknowledged to have been received.—*Sec. XLI. Act II. of* 1855.

Whenever a receipt would be admissible under the preceding Section if given by a principal, a receipt given by an agent or servant of such principal shall in like manner be evidence upon proof of the authority to give such receipt.—*Sec. XLII. Act II. of* 1855.

Books proved to have been regularly kept in the course of business or in any public office shall be admissible as corroborative, but not as independent proof of the facts stated therein.—*Sec. XLIII. Act II. of* 1855.

The following documents may be admitted as corroborative evidence:—Certificates of shares and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit or delivery of money, goods, securities, or other

things, provided they be proved to have been given in the ordinary course of business.—*Sec. XLIV. Act II. of* 1855.

A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.—*Sec. XLV. Act II. of* 1855.

Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person, under the circumstances, be satisfied that there is sufficient reason for the non-production of the original.—*Sec. XLVI. Act II. of* 1855.

In cases of pedigree, the declarations of illegitimate members of the family, and also of persons who, though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.—*Sec. XLVII. Act II. of* 1855.

On an inquiry whether a signature, writing or seal is genuine, any undisputed signature, writing or seal of the party, whose signature, writing or seal is under dispute, may be compared with the disputed one though such signature, writing or seal be on an instrument which is not evidence in the cause.—*Sec. XLVIII. Act II. of* 1855.

Any Power of Attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit or proceeding is depending, may be proved by the production of it, without further proof, where it purports, on the face of it, to have been executed before, and authenticated by a Notary Public or any Court, Judge, Counsel or Magistrate.—*Sec. XLIX. Act II. of* 1855.

Whenever it is proved that a Letter book is kept, and that according to the usual course of business, letters are copied into such book and dispatched, and the Letter Book is produced, and it is proved that the letter was dispatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the dispatch of that letter according to the usual

course of business.—*Sec. L. Act II. of* 1855.

Any book proved to have been kept for marking the dispatch and receipt of letters, containing an entry of the dispatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *primâ facie* evidence of the receipt of such letter.—*Sec. LI. Act II of* 1855.

So much of Section VI. of Act XV. of 1852, as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.—*Sec. LII. Act II. of* 1855.

The provision contained in the 16th Section of Act VI. of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearingof any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits and proceedings on all sides of the Courts.—*Sec. LIII. Act II. of* 1855.

So much of the 17th Section of the same Act as provides that, upon the hearing of any motion, petition or other proceeding in any of the said Supreme Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall extend to all civil actions, suits and proceedings on all sides of the said Courts.—*Sec. LIV. Act II. of* 1855.

The 33rd Section of the Act No. VI. of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.—*Sec. LV. Act II. of* 1855.

Whenever by any statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any certificate, certified copy, or other documents shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinance which makes it evidence, shall be *primâ facie* evidence, where it is rendered

admissible, without proof of any seal, stamp, signature, character or authority, which it is directed to have, or from which it is directed to proceed.—*Sec. LVI. Act II. of* 1855.

The *improper admission* or rejection of evidence shall *not* be *ground* of itself *for* a new trial or *reversal* of any decision in any case, if it shall appear to the Court before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.—*Sec. LVII. Act II. of* 1855.

Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.—*Sec. LVIII. Act II. of* 1855.

EXECUTION.—*Appellated jurisdiction.*—WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had *no jurisdiction* to pronounce the same.—*Sec. I. Act XXXIV. of* 1855.

The Court to which the application is made may, upon reasonable cause being shown, *stay the execution* of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made, if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution

of the property, or the discharge of the person of the debtor, in the mean time.—*Sec. II. Act XXXIV. of* 1855.

Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor, under this Act, the Court may require such *security* from, or impose such *conditions* upon, the judgment-debtor, as it may deem reasonable.—*Sec. III. Act XXXIV. of* 1855.

Any order of the Court in which the judgment was given, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.—*Sec. IV. Act XXXIV. of* 1855.

No discharge of a defendant under the provisions of this Act shall prevent him from being *re-taken* in execution of the judgment.—*Sec. V. Act XXXIV. of* 1855.

This Act shall be read with, and taken as part of, Act No. XXXIII. of 1852.—*Sec. VI. Act XXXIV. of* 1855.

SUPREME COURT—*Execution on all sides of.*

WHEREAS it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases which are contained in Act No. XXV. of 1841: It is enacted as follows:—

No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.—*Sec. I. Act V. of* 1855.

Where any person is liable to pay any money or costs upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs, which by any order, decree, or sentence, made in any proceeding by any of the said Courts, on any side thereof, he has been ordered to pay, execution may be issued either against his person, by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias* or *Venditioni Exponas*, according to the course and prac-

tice of the Court, as the same shall be settled by the rules and orders to be made for giving effect to the provisions of this Act. *Provided* that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.—*Sec. II. Act V. of* 1855.

The Sheriff shall pay the money which he may levy under any execution, either to the party named in the writ in satisfaction of his demand, or into Court, according to the exigency of the writ which shall be in conformity with the order under which the money is payable.—*Sec. III. Act V. of* 1855.

Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts, to execute any conveyance, deed, or instrument, or to make any transfer or surrender, or to do any act which a *constituted attorney* of such person, if directed by the Court to do the same for his principal, would have the means of performing; and such person has refused or neglected to obey such direction or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means; it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other Officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to *do such other act as* aforesaid, *for and in the name of the person* by whom the same ought to have been executed, made, or done; and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an Officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have if it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.—*Sec. IV. Act V. of* 1855.

If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required

for the formal performance of any act required to be done, but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its Officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument, or writing shall be as *valid* and effectual to all intents and purposes *without the execution or signature* of the person directed to execute or sign the same, as it would have been if he had duly executed or signed the same. —*Sec. V. Act V. of* 1855.

When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property, or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court, or elsewhere any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writings, or other articles or things, and to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof, the same is issued. But nothing herein contained shall authorize the Sheriff to disturb the *bonâ fide* possession of any person other than the person against whom such order is made.—*Sec. VI. Act V. of* 1855.

The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby *repealed*.—*Sec. VII. Act V. of* 1855.

Nothing in this Act contained shall prevent any of the said Courts from issuing process of *contempt*, according to its present course of practice, on its Equity side, against the person of any party who has been ordered to do any act, other than the payment of money or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot otherwise be enforced, or against the person of any party who has

committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.—*Sec. VIII. Act V. of* 1855.

It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions herein before contained, and by the Rules or orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.—*Sec. IX. Act V. of* 1855.

The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.—*Sec. X. Act V. of* 1855.

This Act shall take effect from the 1st day of May next.—*Sec. XI. Act V. of* 1855.

SUPREME COURT—*Writs of.*—WHEREAS it is desirable to extend the operation of, and regulate the conduct of Writs of execution out of Her Majesty's Supreme Courts, in certain cases: It is enacted as follows:—

Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.—*Clause* 1 *Sec. I. Act VI. of* 1855.

The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the *judgment-debtor* is in the *actual possession*, and of which an *actual delivery* can be made.—*Clause* 2 *Sec. I. Act VI. of* 1855.

If the lands, houses or other immoveable property liable to be sold under such writ be in the *possession* of any person *other than the judgment-debtor*, the Sheriff shall not seize such property, but shall sell and convey all the right, *title and interest* of the debtor; and such convey-

ance shall pass the same interest to the purchaser as if the same had been executed by the debtor.—*Clause* 3 *Sec. I. Act VI. of* 1855.

In such last mentioned case, if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause *notice* of the same to be officially proclaimed, in like manner as if the sale had been effected under a decree of his own Court.—*Clause* 4, *Sec. I. Act VI. of* 1855.

In any case of intended *sale* of immoveable property *beyond the local limits* of the jurisdiction of such Supreme Court, the Sheriff shall cause a *notice*, specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the District within which such property is situate, and also at the Mal Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold. The number of days between the publication of such notice, and the sale, shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. *Provided* that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bonâ fide* purchaser.—*Clause* 5 *Sec. I. Act VI. of* 1855.

If any lands, houses or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution-debtor or of any one of several execution-debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by *mortgage* of the estate, to *postpone* the sale for a term not exceeding *one month* to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions the for execution of such mortgage.—*Sec. II. Act VI. of* 1855.

Under any such writ of *fieri facias* may also be seized money, bank notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds, or other securities for money, and also debts belonging to the said person; and the Sheriff or other officer having the execution of the writ shall be

at liberty to pay or deliver over to the party suing out such execution, any money or bank notes which shall so be seized, or a sufficient part thereof, and shall, with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondees, bonds, or other securities for money, as a security or *securities* for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, *sue* in his own name as such *Sheriff* or officer, *for* the *recovery* of the sum or sums secured thereby, or for any debt seized as aforesaid when the time of payment thereof shall have arrived; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment, or of such recovery and levy in execution, as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondee, bond, security, and debt; and such *Sheriff* or other officer shall *pay over* to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied, together with Sheriff's poundage and all lawful charges and expenses, any *surplus* shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. *Provided* that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondee, bond, security, or debt, unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or, if the Court shall so order, by some other person to be appointed by the Court for such purpose; and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to

the execution-creditor.—*Sec. III. Act VI. of* 1855.

If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security, whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose of such Government security through a broker at the market rate of the day; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus: "A. B. by C. D. Sheriff;" and such endorsement shall be as effectual to pass the said Government security, and to give a good title to the holder thereof, as if the same had been endorsed by the party himself or his duly constituted attorney.—*Sec. IV. Act VI. of* 1855

No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.—*Sec. IV. Act VI. of* 1855.

If any person against whom any writ of execution shall have issued, shall have any interest in any stock or shares in any Public Company, whether incorporated or not, carrying on business in India, and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court, or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex-parte* that such interest in such stock or shares, or such of them, or such part thereof, respectively, as the said Court or Judge shall think fit, shall stand charged with the payment of the amount due in respect of such writ of execution; and such order shall have the like effect and entitle the person in whose favor the same is made, to the same remedies and priorities as a charge executed in favor of such person, by the person against whom execution shall have been issued; and service or notice of such order upon or to the Public Company, whose stock or shares are the subject, of such order, or upon or to any person claiming an interest in such stock or shares, shall have the like effect, and shall entitle the person in whose favor such order is made to the same remedies against such public Company, or such last-mentioned person, as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the

same shall have been issued. *Provided* that nothing herein contained shall prevent the person against whom such order shall have been made, or any other person affected thereby, from applying to the Court or Judge by whom such order has been made for its discharge, on such grounds as may be just.—*Sec. VI. Act VI. of* 1855.

If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court, or of any other officer of the Court, or in the dividends, interest, or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the *interest of the defendant* in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.—*Sec. VII. Act VI. of* 1855.

A plaintiff or defendant, arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree or sentence of any of the said Courts, whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest, on payment or tender to such party or his attorney in the cause, or to the Sheriff or Gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.—*Sec. VIII. Act VI. of* 1855.

A writen *order* under the hand of *the attorney* in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall *justify* the Sheriff, Gaoler, or person in whose custody the party may be, under such writ, in discharging such party, *unless* the party for whom such attorney professes to act shall have given *written notice to the contrary* to such Sheriff, Gaoler, or person in whose custody the opposite party may be, but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.—*Sec. IX. Act VI. of* 1855.

A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages, beyond the amount of the loss which his breach of duty has really occasioned.—*Sec. X. Act VI. of* 1855.

A *writ* of execution sued out after the commencement of this Act, if unexecuted, shall *not* remain *in force* for more than *one year* from the date of such writ, *unless renewed* in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it, for one

year from the date of such renewal; and so on, from time to time, during the continuance of the renewed writ, by being marked with the seal of the Court, and with a memorandum, signed by the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and Memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect, and be entitled to the same priority as the original writ would have had. *Provided* however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.—*Sec. XI. Act VI. of* 1855.

The production of a writ of execution, or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of it's having been so renewed.—*Sec. XII. Act VI. of* 1855.

All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.—*Sec. XIII. Act VI. of* 1855.

The words "*person*" and "party" as used in this Act shall be understood to include any *body corporate* and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.—*Sec. XIV. Act VI. of* 1855.

SUPREME COURT—*Arrest and Imprisonment.*—WHEREAS it is expedient to amend the Law of Arrest in the *Supreme Courts* of Judicature at Fort William in Bengal, Fort St. George, and Bombay and in the Court of Judicature of Prince of Wales' Island, Singapore and Malacca: It is hereby enacted as follows:—

No person shall be arrested, or held to bail upon mesne process in any action at law now pending, or which shall be com-

a *sufficient authority* to the Sheriff and Gaoler for such discharge, so far as concerns the action or suit to which such order relates. *Provided* that, when an order shall be made for the discharge of a prisoner upon his entering a common appearance, such discharge shall not be made until a certificate shall be produced to the keeper of the prison from the Officer of the Court with whom appearances are entered, to the effect that an appearance has been entered according to the terms of the order.—*Sec. XI. Act VII. of* 1855.

It shall be the duty of the Sheriff and of the keeper of every prison in which any person shall be confined under any such process, as above mentioned, to report to the Court out of which the process issued, the name of every prisoner confined under such process who shall appear to be unable to maintain himself in prison, or who shall complain that he has been arrested without cause, and it shall be lawful for the Court or a Judge upon any such report to cause the prisoner to be forthwith brought before them, or to make such other order as may seem fit; and the Sheriff shall be bound to serve any rule, summons or order made under this Act which the Court or Judge shall order him to serve. —*Sec. XII. Act VII. of* 1855.

Any rule or order made in pursuance of the provisions of this Act shall be a sufficient *justification* for any Sheriff, Gaoler or other Officer for any act which he may do in pursuance thereof.—*Sec. XIII. Act VII. of* 1855.

In the construction of this Act, the word "Affidavit" and the word "*Oath*" shall include affirmation in cases where "Affirmation" is allowed instead of an oath, and unless there is any thing in the context repugnant to such a construction; words in the singular number shall include the plural, and words in the masculine gender shall include females.—*Sec. XIV. Act VII. of* 1855.

Nothing in this Act is intended to alter or affect any rule in force in any of the said Courts, not inconsistent herewith, or any of the provisions of the Act in force for consolidating and amending the law relating to Insolvent Debtors in India.—*Sec. XV. Act VII. of* 1855.

In the application of this Act in the Settlement of Prince of Wales' Island, Singapore and Malacca, a *dollar* shall be deemed equal to two rupees and one-fifth of a rupee, and three *cents* shall be deemed equal to one anna.—*Sec. XVI. Act VII. of* 1855.

Executors.

Whereas it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such Executors, Administrators or Representatives; It is enacted as follows:—

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong, an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person: and further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death, and so as such action shall be commenced within two years after the committing of the wrong: and the damages to be recovered in such action shall, if recovered against an Executor or Administrator, bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

II. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the Executors, Administrators or Representatives of the party deceased. Provided that, in any case in which any such action shall be continued against the Executors, Administrators or Representatives of a deceased party, such Executors, Administrators or Representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.—*Act XII. of* 1855.